

**SUMMONS  
(CITACION JUDICIAL)**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)  
**CONFIRMED ORIGINAL FILED**  
Superior Court of California  
County of Los Angeles  
**MAY 20 2021**  
Sherril R. Carter, Executive Officer/Clerk of Court  
By: Kristina Vargas, Deputy

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

IMAGE 2000, a California Corporation; and DOES 1-50, Inclusive,

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

SERGIO ABUNDIS, on behalf of himself and on behalf of all persons similarly situated,

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](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. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

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

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es): Stanley Mosk Courthouse  
111 N. Hill Street  
Los Angeles, CA 90012

CASE NUMBER: (Número del Caso):  
**21STCV19193**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Shani O. Zakay, Esq. Zakay Law Group, APLC. 3990 Old Town Avenue, Suite C204, San Diego, CA 92110 T: 619-255-9047

DATE: 05/19/2021 Clerk, by **Kristina Vargas**, Deputy  
(Fecha) **MAY 20 2021** **SHERIL R. CARTER** (Secretario) **Kristina Vargas** (Adjunto)

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

[SEAL]

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

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

VIA FAX

COPY

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Superior Court of California  
County of Los Angeles

MAY 20 2021

Sherri R. Carter, Executive Officer/Clerk of Court

By: Kristina Vargas, Deputy

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9 Attorneys for Plaintiffs

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **IN AND FOR THE COUNTY OF LOS ANGELES**

12 SERGIO ABUNDIS, on behalf of himself  
and on behalf of all persons similarly  
13 situated,

14 Plaintiffs,

15 v.

16 IMAGE 2000, a California Corporation; and  
DOES 1-50, Inclusive,

17 DEFENDANT.  
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Case No: **21STCV19193**

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 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 and 226.2;
- 8) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
- 9) UNPAID SICK PAY AND FAILURE TO PROVIDE PAID SICK LEAVE BALANCE IN VIOLATION OF CAL. LAB. CODE §§ 246, *et seq.*;
- 10) RETALIATION IN VIOLATION OF CAL. LAB. CODE § 1102.5;
- 11) WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY.
- 12) VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698 *et seq.*]

**DEMAND FOR A JURY TRIAL**

VIA FAX

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

4 **PRELIMINARY ALLEGATIONS**

5 1. Defendant IMAGE 2000 (“DEFENDANT”) is a California corporation and at all  
6 relevant times mentioned herein conducted and continues to conduct substantial and regular  
7 business throughout California.

8 2. DEFENDANT is a California Corporation that provides office technology,  
9 software solutions, and printing services to its clients. DEFENDANT operates multiple locations  
10 in California is headquartered in Los Angeles, California.

11 3. PLAINTIFF was employed by DEFENDANT in California as a non-exempt  
12 employee entitled to minimum wages, overtime pay and meal and rest periods from October of  
13 2012 to October 16, 2020.

14 4. PLAINTIFF brings this Class Action on behalf of himself and a California class,  
15 defined as all individuals who are or previously were employed by DEFENDANT in California  
16 and classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the  
17 period beginning four (4) years prior to the filing of the Complaint and ending on the date as  
18 determined by the Court (the “CALIFORNIA CLASS PERIOD”). The amount in controversy  
19 for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars  
20 (\$5,000,000.00).

21 5. PLAINTIFF brings this Class Action on behalf of himself and a CALIFORNIA  
22 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during  
23 the CALIFORNIA CLASS PERIOD caused by DEFENDANT’S uniform policy and practice  
24 which failed to lawfully compensate these employees for all their time worked. DEFENDANT’S  
25 uniform policy and practice alleged herein is an unlawful, unfair and deceptive business practice  
26 whereby DEFENDANT retained and continues to retain wages due to PLAINTIFF and the other  
27 members of the CALIFORNIA CLASS. PLAINTIFF and the other members of the  
28 CALIFORNIA CLASS seek an injunction enjoining such conduct by DEFENDANT in the future,  
relief for the named PLAINTIFF and the other members of the CALIFORNIA CLASS who have

1 been economically injured by DEFENDANT’S past and current unlawful conduct, and all other  
2 appropriate legal and equitable relief.

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

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

20 **THE CONDUCT**

21 8. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was  
22 required to pay PLAINTIFF and the CALIFORNIA CLASS Members for all their time worked,  
23 meaning the time during which an employee is subject to the control of an employer, including  
24 all the time the employee is suffered or permitted to work. From time to time, DEFENDANT  
25 required PLAINTIFF and CALIFORNIA CLASS Members to work without paying them for all  
26 the time they were under DEFENDANT’S control. Specifically, due to DEFENDANT’S  
27 unlawful policy of only compensating for overtime wages that were pre-approved by  
28 DEFENDANT, PLAINTIFF performed work before, during, and after their shifts, as well as

1 during their meal breaks, spending time under DEFENDANT’S control for which they were not  
2 compensated. Moreover, PLAINTIFF and other CALIFORNIA CLASS Members were not  
3 compensated for work they performed while “on-call” for DEFENDANT. From time to time,  
4 DEFENDANT failed to pay PLAINTIFF and other CALIFORNIA CLASS Members the full  
5 amount of overtime compensation earned. Specifically, PLAINTIFF and other CALIFORNIA  
6 CLASS Members from time to time worked overtime hours for DEFENDANT. However, in order  
7 to avoid paying PLAINTIFF and other CALIFORNIA CLASS Members at one-and-one half  
8 times their hourly rate, DEFENDANT instead only compensated its employees at their hourly  
9 rate and allowed them to arrive at work an hour late or leave an hour earlier. DEFENDANT’S  
10 unlawful compensation policy resulted in PLAINTIFF and other CALIFORNIA CLASS  
11 Members being severely undercompensated for overtime compensation. As a result, the  
12 PLAINTIFF and other CALIFORNIA CLASS Members forfeited minimum wage and overtime  
13 compensation by regularly working without their time being accurately recorded and without  
14 compensation at the applicable minimum wage and overtime rates. DEFENDANT’S uniform  
15 policy and practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all  
16 time worked is evidenced by DEFENDANT’S business records.

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

21         10. The second component of PLAINTIFF’S and other CALIFORNIA CLASS  
22 Members’ compensation was DEFENDANT’S non-discretionary incentive program that paid  
23 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their  
24 performance for DEFENDANT. The non-discretionary incentive program provided all  
25 employees paid on an hourly basis with incentive compensation when the employees met the  
26 various performance goals set by DEFENDANT. However, when calculating the regular rate of  
27 pay in order to pay sick and vacation pay to PLAINTIFF and other CALIFORNIA CLASS  
28 Members, DEFENDANT failed to include the incentive compensation as part of the employees’

1 “regular rate of pay” for purposes of calculating overtime, sick and/or vacation pay. Management  
2 and supervisors described the incentive program to potential and new employees as part of the  
3 compensation package. As a matter of law, the incentive compensation received by PLAINTIFF  
4 and other CALIFORNIA CLASS Members must be included in the “regular rate of pay.” The  
5 failure to do so has resulted in a systematic underpayment of overtime, sick and/or vacation  
6 compensation to PLAINTIFF and other CALIFORNIA CLASS Members by DEFENDANT.  
7 Specifically, California Labor Code Section 246 mandates that paid sick time for non-employees  
8 shall be calculated in the same manner as the regular rate of pay for the workweek in which the  
9 non-exempt employee uses paid sick time, whether or not the employee actually works overtime  
10 in that workweek. DEFENDANT’S conduct, as articulated herein, by failing to include the  
11 incentive compensation as part of the “regular rate of pay” for purposes of sick pay compensation  
12 was in violation of Cal. Lab. Code § 246.

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

24 12. During the CALIFORNIA CLASS PERIOD, from time to time, PLAINTIFF and  
25 other CALIFORNIA CLASS Members were also required to work in excess of four (4) hours  
26 without being provided ten (10) minute rest periods. Further, these employees were denied their  
27 first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4)  
28 hours, a first and second rest period of at least ten (10) minutes for some shifts worked of between

1 six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for  
2 some shifts worked of ten (10) hours or more. When they did have an opportunity to take their  
3 rest breaks, PLAINTIFF and the CALIFORNIA CLASS Members were often interrupted and  
4 required by DEFENDANT to work during their rest breaks. When they did have an opportunity  
5 to take their rest breaks, PLAINTIFF and the CALIFORNIA CLASS Members were required to  
6 remain on-duty and on-call, and subject to DEFENDANT's control in accordance with  
7 DEFENDANT's written policy. PLAINTIFF and other CALIFORNIA CLASS Members were  
8 also not provided with one hour wages in lieu thereof. As a result of their rigorous work schedules,  
9 PLAINTIFF and other CALIFORNIA CLASS Members were periodically denied their proper  
10 rest periods by DEFENDANT and DEFENDANT'S managers.

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

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

1 to illegally profit and gain an unfair advantage over competitors who complied with the law. To  
2 the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS against  
3 DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted accordingly.

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

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

20 17. Aside from the violations listed herein, DEFENDANT failed to issue to  
21 PLAINTIFF an itemized wage statement that lists all the requirements under California Labor  
22 Code 226 *et seq.* As a result, from time to time DEFENDANT provided PLAINTIFF and the other  
23 members of the CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code §  
24 226.

25 18. California Labor Code Section 246 mandates that paid sick time for non-employees  
26 shall be calculated in the same manner as the regular rate of pay for the workweek in which the  
27 non-exempt employee uses paid sick time, whether or not the employee actually works overtime  
28 in that workweek.



1           19.     California Labor Code Section 246, *et seq.* requires an employer to furnish its  
2 employees with written wage statements setting forth the amount of paid sick leave available.  
3 From time to time, DEFENDANT violated Cal. Lab. Code § 246 by failing to furnish PLAINTIFF  
4 and other members of the CALIFORNIA CLASS with wage statements setting forth the amount  
5 of paid sick leave available.

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

17           21.     In the course of their employment, DEFENDANT required PLAINTIFF and other  
18 CALIFORNIA CLASS Members to use DEFENDANT's work-issued vehicles as a result of and  
19 in furtherance of their job duties as employees for DEFENDANT. However, DEFENDANT  
20 unlawfully required PLAINTIFF and other CALIFORNIA CLASS Members to incur personal  
21 business expenses for the use of DEFENDANTs work-issued vehicles by way of a deduction from  
22 their wages. As a result, in the course of their employment with DEFENDANT the PLAINTIFF  
23 and other members of the CALIFORNIA CLASS incurred unreimbursed business expenses and  
24 an unlawful deduction of wages which included, but were not limited to, costs related to the use  
25 of DEFENDANT's own work-issued vehicles all on behalf of and for the benefit of  
26 DEFENDANT.

27           22.     By reason of this uniform conduct applicable to PLAINTIFF and all  
28 CALIFORNIA CLASS Members, DEFENDANT committed acts of unfair competition in

1 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the  
2 “UCL”), by engaging in a company-wide policy and procedure which failed to accurately  
3 calculate and record all missed meal and rest periods by PLAINTIFF and other CALIFORNIA  
4 CLASS Members, and failed to pay PLAINTIFF and other CALIFORNIA CLASS Members the  
5 correct overtime rate. The proper recording of these employees’ missed meal and rest breaks, and  
6 proper payment of minimum wages and overtime, is the DEFENDANT’S burden. As a result of  
7 DEFENDANT’S intentional disregard of the obligation to meet this burden, DEFENDANT failed  
8 to properly pay all required compensation for work performed by the members of the  
9 CALIFORNIA CLASS and violated the California Labor Code and regulations promulgated  
10 thereunder as herein alleged.

11         23. Specifically, as to PLAINTIFF’S pay, DEFENDANT provided compensation to  
12 him in the form of two components. One component of PLAINTIFF’S compensation was a base  
13 hourly wage. The second component of PLAINTIFF’S compensation was a non-discretionary  
14 incentive wage. DEFENDANT paid the incentive wages, so long as PLAINTIFF met certain  
15 predefined performance requirements. PLAINTIFF met DEFENDANT’S predefined eligibility  
16 performance requirements in various pay periods throughout his employment with DEFENDANT  
17 and DEFENDANT paid PLAINTIFF the incentive wages. During these pay periods in which  
18 PLAINTIFF was paid the non-discretionary incentive wages by DEFENDANT, PLAINTIFF was  
19 also paid wages for sick and/or vacation pay, but DEFENDANT never included the incentive  
20 compensation in PLAINTIFF’S regular rate of pay for the purposes of calculating what should  
21 have been PLAINTIFF’S accurate rate for sick and/or vacation pay, and thereby underpaid  
22 PLAINTIFF for sick and/or vacation pay throughout his employment with DEFENDANT. The  
23 incentive compensation paid by DEFENDANT constituted wages within the meaning of the  
24 California Labor Code and thereby should have been part of PLAINTIFF’S “regular rate of pay.”  
25 PLAINTIFF was from time to time unable to take off duty meal and rest breaks and were not fully  
26 relieved of duty for their rest and meal periods. PLAINTIFF were required to perform work as  
27 ordered by DEFENDANT for more than five (5) hours during a shift without receiving an off-  
28 duty meal break. Further, DEFENDANT failed to provide PLAINTIFF with a second off-duty

1 meal period each workday in which they were required by DEFENDANT to work ten (10) hours  
2 of work. When DEFENDANT provided PLAINTIFF with a rest break, they required  
3 PLAINTIFF to remain on the premises, on-duty and on-call, for the rest break. PLAINTIFF  
4 therefore forfeited meal and rest breaks without additional compensation and in accordance with  
5 DEFENDANT'S strict corporate policy and practice. Further, as a result of DEFENDANT's  
6 unlawful policy to only pay overtime wages for pre-approved overtime hours, PLAINTIFF were  
7 not fully compensated for all time spent working for and under DEFENDANT's control.  
8 Moreover, DEFENDANT also provided PLAINTIFF with a paystub that failed to accurately  
9 display PLAINTIFF' correct time worked and wages, as well as payments for missed meal and  
10 rest periods for certain pay periods in violation of Cal. Lab. Code § 226(a). Further,  
11 DEFENDANT from time to time failed to provide PLAINTIFF with a wage statement setting  
12 forth the amount of paid sick leave available to him, as required by Cal. Lab. Code § 246, *et seq.*  
13 To date, DEFENDANT has not fully paid PLAINTIFF the overtime compensation still owed to  
14 them or any penalty wages owed to them under Cal. Lab. Code § 203. The amount in controversy  
15 for PLAINTIFF individually do not exceed the sum or value of \$75,000.

16 24. Further, specifically as to PLAINTIFF, PLAINTIFF is informed and believes, and  
17 upon such information and belief, that, during PLAINTIFF's employment with DEFENDANT,  
18 DEFENDANT'S employees engaged in unlawful conduct by purposely failing to install service  
19 parts on DEFENDANT's clients' machines, including but not limited to, printers. As stated  
20 herein, DEFENDANT provides office technology, software solutions, and printing services to its  
21 clients. PLAINTIFF believes that DEFENDANT and DEFENDANT's employees were purposely  
22 failing to install expensive parts on, including but not limited to, their clients' printers in order to  
23 unfairly cheat the system and unfairly profit off of DEFENDANT's own clients. PLAINTIFF  
24 reported DEFENDANT'S unlawful conduct to DEFENDANT's supervisors on or around January  
25 of 2020, but PLAINTIFF's reports fell on deaf ears. Instead, DEFENDANT furloughed  
26 PLAINTIFF in or around August of 2020 and was terminated shortly thereafter in October of  
27 2020. PLAINTIFF believes he was terminated for reporting DEFENDANT's illegal conduct.  
28 PLAINTIFF filed a complaint with the California Department of Fair Employment and Housing

1 and received a “right to sue” letter on May 17, 2021 thereby exhausting his administrative  
2 remedies.

3 **JURISDICTION AND VENUE**

4 25. 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 26. Venue is proper in this Court pursuant to California Code of Civil Procedure,  
9 Sections 395 and 395.5, because DEFENDANT (i) currently maintains and at all relevant times  
10 maintained offices and facilities in this County and/or conducts substantial business in this  
11 County, and (ii) committed the wrongful conduct herein alleged in this County against members  
12 of the CALIFORNIA CLASS and CALIFORNIA LABOR SUB-CLASS

13 **THE CALIFORNIA CLASS**

14 27. 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 DEFENDANT 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 28. 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 29. DEFENDANT, 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 DEFENDANT systematically failed to record all meal

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

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

13 31. The CALIFORNIA CLASS is so numerous that joinder of all CALIFORNIA  
14 CLASS Members is impracticable.

15 32. DEFENDANT uniformly violated the rights of the CALIFORNIA CLASS under  
16 California law by:

- 17 a. Violating the California Unfair Competition Laws, Cal. Bus. & Prof. Code §§  
18 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place company  
19 policies, practices and procedures that failed to pay all wages due the  
20 CALIFORNIA CLASS for all time worked;
- 21 b. Committing an act of unfair competition in violation of the California Unfair  
22 Competition Laws, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, by failing to provide  
23 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS  
24 members;
- 25 c. Committing an act of unfair competition in violation of, Cal. Bus. & Prof. Code  
26 §§ 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place  
27 company policies, practices and procedures that uniformly and systematically  
28 failed to record and pay PLAINTIFF and other members of the CALIFORNIA

1 CLASS for all time worked, including minimum wages owed and overtime wages  
2 owed for work performed by these employees; and

3 d. Committing an act of unfair competition in violation of the California Unfair  
4 Competition Laws, Cal. Bus. & Prof. Code §§ 17200 *et seq.*, by violating Cal. Lab.  
5 Code § 2802 by failing to reimburse PLAINTIFF and the CALIFORNIA CLASS  
6 members with necessary expenses incurred in the discharge of their job duties.

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

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

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

15 c. The claims of the representative PLAINTIFF are typical of the claims of each  
16 member of the CALIFORNIA CLASS. PLAINTIFF, like all the other members of  
17 the CALIFORNIA CLASS, were classified as a non- exempt employee paid on an  
18 hourly basis who was subjected to the DEFENDANT’S deceptive practice and  
19 policy which failed to provide the legally required meal and rest periods to the  
20 CALIFORNIA CLASS and thereby systematically underpaid compensation to  
21 PLAINTIFF and CALIFORNIA CLASS. PLAINTIFF sustained economic injury  
22 as a result of DEFENDANT’S employment practices. PLAINTIFF and the  
23 members of the CALIFORNIA CLASS were and are similarly or identically  
24 harmed by the same unlawful, deceptive, unfair and pervasive pattern of  
25 misconduct engaged in by DEFENDANT; and

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

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

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

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

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

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

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

23 i. With respect to the First Cause of Action, the final relief on behalf of the  
24 CALIFORNIA CLASS sought does not relate exclusively to restitution  
25 because through this claim PLAINTIFF seek declaratory relief holding that  
26 the DEFENDANT'S policy and practices constitute unfair competition,  
27 along with declaratory relief, injunctive relief, and incidental equitable  
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relief as may be necessary to prevent and remedy the conduct declared to constitute unfair competition;

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

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

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

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

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

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



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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.

35. 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 DEFENDANT’S 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;
- c. The members of the CALIFORNIA CLASS are so numerous that it is impractical to bring all members of the CALIFORNIA CLASS before the Court;
- d. PLAINTIFF, and the other CALIFORNIA 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 DEFENDANT’s actions have inflicted upon the CALIFORNIA CLASS;

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

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

18 **THE CALIFORNIA LABOR SUB-CLASS**

19 37. PLAINTIFF further bring the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth,  
20 and Ninth causes of Action on behalf of a California sub-class, defined as all members of the  
21 CALIFORNIA CLASS classified as non-exempt employees (the “CALIFORNIA LABOR SUB-  
22 CLASS”) at any time during the period three (3) years prior to the filing of the original complaint  
23 and ending on the date as determined by the Court (the “CALIFORNIA LABOR SUB-CLASS  
24 PERIOD”) pursuant to Cal. Code of Civ. Proc. § 382. The amount in controversy for the  
25 aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five million dollars  
26 (\$5,000,000.00).

27 38. DEFENDANT, as a matter of company policy, practice and procedure, and in  
28 violation of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order

1 requirements, and the applicable provisions of California law, intentionally, knowingly, and  
2 willfully, engaged in a practice whereby DEFENDANT failed to correctly pay for the time  
3 worked by PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS, and  
4 other wages and premiums owed to these employees, even though DEFENDANT enjoyed the  
5 benefit of this work, required employees to perform this work and permitted or suffered to permit  
6 this overtime work. DEFENDANT has uniformly denied these CALIFORNIA LABOR SUB-  
7 CLASS Members wages to which these employees are entitled in order to unfairly cheat the  
8 competition and unlawfully profit. To the extent equitable tolling operates to toll claims by the  
9 CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR SUB-  
10 CLASS PERIOD should be adjusted accordingly.

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

16 40. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all  
17 CALIFORNIA LABOR SUB-CLASS Members is impracticable

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

- 20 a. Whether DEFENDANT unlawfully failed to correctly calculate and pay  
21 compensation due to members of the CALIFORNIA LABOR SUB- CLASS for  
22 missed meal and rest breaks in violation of the California Labor Code and  
23 California regulations and the applicable California Wage Order;
- 24 b. Whether DEFENDANT failed to provide PLAINTIFF and the other members of  
25 the CALIFORNIA LABOR SUB-CLASS with legally required uninterrupted  
26 thirty (30) minute meal breaks and rest periods;

- 1 c. Whether DEFENDANT failed to provide PLAINTIFF and the other members of
- 2 the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage
- 3 statements;
- 4 d. Whether DEFENDANT unlawfully failed to correctly calculate and pay overtime,
- 5 sick and/or vacation compensation to members of the CALIFORNIA LABOR
- 6 SUB-CLASS in violation of the California Labor Code and California regulations
- 7 and the applicable California Wage Order;
- 8 e. Whether the members of the CALIFORNIA LABOR SUB-CLASS are entitled to
- 9 compensation for time worked, including overtime worked, under the overtime
- 10 pay requirements of California law;
- 11 f. Whether DEFENDANT unlawfully failed to furnish written wage statements
- 12 setting forth the amount of paid sick leave available to PLAINTIFF and other
- 13 members of the CALIFORNIA LABOR SUB-CLASS;
- 14 g. Whether DEFENDANT has engaged in unfair competition by the above-listed
- 15 conduct;
- 16 h. The proper measure of damages and penalties owed to the members of the
- 17 CALIFORNIA LABOR SUB-CLASS; and
- 18 i. Whether DEFENDANT's conduct was willful.

19 42. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS  
20 under California law by:

- 21 a. Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to correctly pay PLAINTIFF
- 22 and the members of the CALIFORNIA LABOR SUB-CLASS all wages due for
- 23 overtime worked, for which DEFENDANT are liable pursuant to Cal. Lab. Code
- 24 § 1194;
- 25 b. Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to accurately
- 26 pay PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS
- 27 the correct minimum wage pay for which DEFENDANT are liable pursuant to
- 28 Cal. Lab. Code §§ 1194 and 1197;

- 1 c. Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFF and
- 2 the other members of the CALIFORNIA CLASS with all legally required off-duty,
- 3 uninterrupted thirty (30) minute meal breaks and the legally required rest breaks;
- 4 d. Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the
- 5 members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized
- 6 statement in writing showing all accurate rates in effect during the pay period and
- 7 the corresponding amount of time worked at each overtime rate by the employee;
- 8 e. Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and the
- 9 CALIFORNIA CLASS members with necessary expenses incurred in the
- 10 discharge of their job duties;
- 11 f. Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an
- 12 employee is discharged or quits from employment, the employer must pay the
- 13 employee all wages due without abatement, by failing to tender full payment
- 14 and/or restitution of wages owed or in the manner required by California law to
- 15 the members of the CALIFORNIA LABOR SUB-CLASS who have terminated
- 16 their employment; and
- 17 g. Violating Cal. Lab. Code § 246, which provides that an employer must furnish its
- 18 employees with written wage statements setting forth the amount of paid sick leave
- 19 available to them.

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

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

3 c. The claims of the representative PLAINTIFF are typical of the claims of each  
4 member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF, like all the  
5 other members of the CALIFORNIA LABORSUB-CLASS, was a non-exempt  
6 employee paid on an hourly basis who was subjected to the DEFENDANT’S  
7 practice and policy which failed to pay the correct amount of wages due to the  
8 CALIFORNIA LABOR SUB-CLASS. PLAINTIFF sustained economic injury as  
9 a result of DEFENDANT’S employment practices. PLAINTIFF and the members  
10 of the CALIFORNIA LABOR SUB-CLASS were and are similarly or identically  
11 harmed by the same unlawful, deceptive, unfair and pervasive pattern of  
12 misconduct engaged in by DEFENDANT; and

13 d. The representative PLAINTIFF will fairly and adequately represent and protect  
14 the interest of the CALIFORNIA LABOR SUB-CLASS, and has retained counsel  
15 who are competent and experienced in Class Action litigation. There are no  
16 material conflicts between the claims of the representative PLAINTIFF and the  
17 members of the CALIFORNIA LABOR SUB-CLASS that would make class  
18 certification inappropriate. Counsel for the CALIFORNIA LABOR SUB-CLASS  
19 will vigorously assert the claims of all CALIFORNIA LABOR SUB-CLASS  
20 Members.

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

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

27 i. Inconsistent or varying adjudications with respect to individual members  
28 of the CALIFORNIA LABOR SUB-CLASS which would establish

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incompatible standards of conduct for the parties opposing the CALIFORNIA LABOR SUB-CLASS; or

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

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

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

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

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

1. Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA LABOR SUB-CLASS, which

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would establish incompatible standards of conduct for the DEFENDANT; 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 DEFENDANT, which may adversely affect an individual’s job with DEFENDANT 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.

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

- a. The questions of law and fact common to the CALIFORNIA LABOR SUB-CLASS predominate over any question affecting only individual CALIFORNIA LABOR SUB-CLASS Members;
- b. A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA LABOR SUB-CLASS because in the context of employment litigation a substantial number of individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting



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- 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 DEFENDANT’S actions have inflicted upon the CALIFORNIA LABOR SUB-CLASS;
  - f. There is a community of interest in ensuring that the combined assets of DEFENDANT are sufficient to adequately compensate the members of the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
  - g. DEFENDANT has 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 DEFENDANT. The CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA CLASS Members classified as non-exempt employees during the CALIFORNIA LABOR SUB-CLASS PERIOD; and
  - i. Class treatment provides manageable judicial treatment calculated to bring an efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of DEFENDANT as to the members of the CALIFORNIA LABOR SUB-CLASS.

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 DEFENDANT)**

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

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

10 48. 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 49. 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, 206.5, 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 50. 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 this Court should issue equitable and injunctive relief pursuant to Section 17203

1 of the California Business & Professions Code, including restitution of wages wrongfully  
2 withheld.

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

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

15 53. By the conduct alleged herein, DEFENDANT’S practices were also unfair and  
16 deceptive in that DEFENDANT’S uniform policies, practices and procedures failed to provide  
17 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members.

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

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

26 56. By and through the unlawful and unfair business practices described herein,  
27 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the  
28 other members of the CALIFORNIA CLASS, including earned wages, and has deprived them of

1 valuable rights and benefits guaranteed by law and contract, all to the detriment of these  
2 employees and to the benefit of DEFENDANT so as to allow DEFENDANT to unfairly compete  
3 against competitors who comply with the law.

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

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

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

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

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1 **SECOND CAUSE OF ACTION**

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

4 **(Alleged By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS against ALL**  
5 **DEFENDANT)**

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

9 62. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
10 bring a claim for DEFENDANT’S willful and intentional violations of the California Labor Code  
11 and the Industrial Welfare Commission requirements for DEFENDANT’S failure to accurately  
12 calculate and pay minimum wages to PLAINTIFF and CALIFORNIA CLASS Members.

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

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

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

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

25 67. DEFENDANT’S uniform pattern of unlawful wage and hour practices manifested,  
26 without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result  
27 of implementing a uniform policy and practice that denies accurate compensation to PLAINTIFF  
28 and the other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum wage  
pay.

1           68. 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 LABOR SUB-CLASS.  
4 DEFENDANT acted in an illegal attempt to avoid the payment of all earned wages, and other  
5 benefits in violation of the California Labor Code, the Industrial Welfare Commission  
6 requirements and other applicable laws and regulations.

7           69. As a direct result of DEFENDANT’S unlawful wage practices as alleged herein,  
8 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive  
9 the correct minimum wage compensation for their time worked for DEFENDANT.

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

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

18           72. DEFENDANT knew or should have known that PLAINTIFF and the other  
19 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time  
20 worked. 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 LABOR SUB-CLASS the correct  
24 minimum wages for their time worked.

25           73. In performing the acts and practices herein alleged in violation of California labor  
26 laws, and refusing to compensate members of the CALIFORNIA LABOR SUB-CLASS for all  
27 time worked and provide them with requisite compensation, DEFENDANT acted and continues  
28 to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of  
the CALIFORNIA LABOR SUB-CLASS with conscious and utter disregard for their legal rights,  
or the consequences to them, and with the despicable intent of depriving them of their property

1 and legal rights, and otherwise causing them injury in order to increase company profits at the  
2 expense of these employees.

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

14 **THIRD CAUSE OF ACTION**

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

17 **(Alleged By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS against ALL**  
18 **DEFENDANT)**

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

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

1           77. 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           78. 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           79. 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           80. DEFENDANT maintained a uniform wage practice of paying PLAINTIFF and the  
12 other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct amount  
13 of overtime worked and correct applicable overtime rate for the amount of overtime they worked.  
14 As set forth herein, DEFENDANT'S 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 DEFENDANT in fact failed to  
17 pay these employees the correct applicable overtime wages for all overtime worked.

18           81. DEFENDANT'S 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           82. In committing these violations of the California Labor Code, DEFENDANT  
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. DEFENDANT 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           83. As a direct result of DEFENDANT’S 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           84. 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 himself and the CALIFORNIA LABOR  
10 SUB-CLASS based on DEFENDANT’S violations of non-negotiable, non-waivable rights  
11 provided by the State of California.

12           85. 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           86. DEFENDANT 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           87. By virtue of DEFENDANT’S 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           88. DEFENDANT 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. DEFENDANT 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 DEFENDANT 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 89. 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, DEFENDANT acted  
7 and continues to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other  
8 members of the CALIFORNIA LABOR SUB-CLASS with a conscious and utter disregard for  
9 their legal rights, or the consequences to them, and with the despicable intent of depriving them  
10 of their property and legal rights, and otherwise causing them injury in order to increase company  
11 profits at the expense of these employees.

12 90. 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 DEFENDANT, 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, DEFENDANT'S  
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. DEFENDANT'S 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  
DEFENDANT)**

26 91. 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           96.     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 DEFENDANT and DEFENDANT’S managers. When DEFENDANT 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 DEFENDANT’S premises for those rest breaks.

14           97.     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 rest 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 rest period was not provided.

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

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1 wages. These expenses were necessary to complete their principal job duties. DEFENDANT is  
2 estopped by DEFENDANT’S conduct to assert any waiver of this expectation. Although these  
3 expenses were necessary expenses incurred by PLAINTIFF and the CALIFORNIA LABOR  
4 SUB-CLASS members, DEFENDANT failed to indemnify and reimburse PLAINTIFF and the  
5 CALIFORNIA LABOR SUB-CLASS members for these expenses as an employer is required to  
6 do under the laws and regulations of California.

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

11 **SEVENTH CAUSE OF ACTION**

12 **FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS**

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

14 **(Alleged by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and against all  
15 DEFENDANT)**

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

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

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

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

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

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

106. When DEFENDANT did not accurately record PLAINTIFF’ and other CALIFORNIA CLASS Members’ wages, including overtime wages, owed, DEFENDANT also failed to provide PLAINTIFF and the other members of the CALIFORNIA CLASS with complete and accurate wage statements which failed to show, among other things, the correct overtime rate, the correct number of hours worked, missed meal and rest periods, owed to PLAINTIFF and other CALIFORNIA CLASS Members. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her employees with an accurate itemized wage statement in writing showing, among other things, gross wages earned and all applicable hourly rates in effect during the pay period and the corresponding amount of time worked at each hourly rate. Aside from the violations listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF an itemized wage statement that lists all the requirements under California Labor Code 226 *et seq.* As a result,

1 from time to time DEFENDANT provided PLAINTIFF and the other members of the  
2 CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code § 226.

3 107. DEFENDANT knowingly and intentionally failed to comply with Cal. Labor Code  
4 § 226, causing injury and damages to the PLAINTIFF and the other members of the  
5 CALIFORNIA LABOR SUB-CLASS. These damages include, but are not limited to, costs  
6 expended calculating the correct rates for the overtime worked and the amount of employment  
7 taxes which were not properly paid to state and federal tax authorities. These damages are difficult  
8 to estimate. Therefore, PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
9 CLASS may elect to recover liquidated damages of fifty dollars (\$50.00) for the initial pay period  
10 in which the violation occurred, and one hundred dollars (\$100.00) for each violation in a  
11 subsequent pay period pursuant to Cal. Lab. Code § 226, in an amount according to proof at the  
12 time of trial (but in no event more than four thousand dollars (\$4,000.00) for PLAINTIFF and  
13 each respective member of the CALIFORNIA LABOR SUB-CLASS herein).

14 **EIGHTH CAUSE OF ACTION**

15 **FAILURE TO PAY WAGES WHEN DUE**

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

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

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

22 109. Cal. Lab. Code § 200 provides that:

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



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

4 111. Cal. Lab. Code § 202 provides, in relevant part, that:

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

14 112. There was no definite term in PLAINTIFF’ or any CALIFORNIA LABOR SUB-  
15 CLASS Members’ employment contract.

16 113. Cal. Lab. Code § 203 provides:

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

22 114. The employment of PLAINTIFF and many CALIFORNIA LABOR SUB-CLASS  
23 Members terminated and DEFENDANT has not tendered payment of wages, to these employees  
24 who missed meal and rest breaks, as required by law.

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

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1 **NINTH CAUSE OF ACTION**

2 **UNPAID SICK PAY AND FAILURE TO PROVIDE PAID SICK LEAVE BALANCE**

3 **(Cal. Lab. Code § 246, et seq.)**

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

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

9 117. Cal. Labor Code Sections 246(l)(1) mandates that “[p]aid sick time for nonexempt  
10 employees shall be calculated in the same manner as the regular rate of pay for the workweek in  
11 which the employee uses paid sick time, whether or not the employee actually works overtime in  
12 that workweek.”

13 118. From time-to-time, during the PLAINTIFF and other members of the  
14 CALIFORNIA LABOR SUB-CLASS were compensated at an hourly rate plus either non-  
15 discretionary incentive pay. As a matter of law, the incentive compensation and/or piece-rate  
16 compensation received by PLAINTIFF and other members of the CALIFORNIA LABOR SUB-  
17 CLASS must be included in the “regular rate of pay.”

18 119. From time-to-time during the CLASS PERIOD, in those pay periods where  
19 PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS earned hourly  
20 compensation and either non-discretionary incentive compensation, and took paid sick time,  
21 DEFENDANT failed to properly calculate the regular rate of pay for purposes of compensating  
22 paid sick time by omitting non-discretionary incentive pay from the regular rate of pay.

23 120. DEFENDANT’s uniform policy and practice of omitting non-discretionary  
24 incentive pay and/or piece-rate pay from the regular rate of pay for purposes of paying paid sick  
25 pay, resulted in the underpayment of sick pay wages to PLAINTIFF and other members of the  
26 CALIFORNIA LABOR SUB-CLASS. PLAINTIFF and other members of the CALIFORNIA  
27 LABOR SUB-CLASS therefore request recovery of all unpaid wages, including sick pay wages,  
28 according to proof, interest, statutory costs, as well as the assessment of any statutory penalties  
against DEFENDANT, in a sum as provided by the California Labor Code and/or other applicable

1 statutes. To the extent overtime compensation is determined to be owed to other members of the  
2 CALIFORNIA LABOR SUB-CLASS who have terminated their employment, DEFENDANT's  
3 conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be  
4 entitled to waiting time penalties under Cal. Lab. Code § 203, which penalties are sought herein  
5 on behalf of other members of the CALIFORNIA LABOR SUB-CLASS. DEFENDANT'S  
6 conduct as alleged herein was willful, intentional and not in good faith. Further, PLAINTIFF and  
7 other members of the CALIFORNIA LABOR SUB-CLASS are entitled to seek and recover  
8 statutory costs.

9 121. Cal. Lab. Code § 246(i) provides that:

10 An employer shall provide an employee with written notice that sets forth the  
11 amount of paid sick leave available, or paid time off leave an employer provides  
12 in lieu of sick leave, for use on either the employee's itemized wage statement  
13 described in Section 226 or in a separate writing provided on the designated pay  
14 date with the employee's payment of wages. If an employer provides unlimited  
15 paid sick leave or unlimited paid time off to an employee, the employer may satisfy  
16 this section by indicating on the notice or the employee's itemized wage statement  
17 "unlimited."

18 122. From time to time, DEFENDANT failed to furnish PLAINTIFF and other  
19 members of the CALIFORNIA LABOR SUB-CLASS with written wage statements setting forth  
20 the amount of paid sick leave available to them, as required under Cal. Lab. Code §§ 246, *et seq.*  
21 As a result, PLAINTIFF and other members of the CALIFORNIA LABOR-SUBCLASS are  
22 entitled to seek and recover statutory costs.

### 23 **TENTH CAUSE OF ACTION**

#### 24 **RETALIATION IN VIOLATION OF CAL. LAB. CODE § 1102.5**

25 **(Alleged by PLAINTIFF and against all Defendants)**

26 123. PLAINTIFF realleges and incorporates by this reference, as though fully set forth  
27 herein, the prior paragraphs of this Complaint.

28 124. PLAINTIFF had reasonable cause to believe that DEFENDANT had violated state  
law by, *inter alia*, purposely gaining an unfair and unlawful business advantage by intentionally  
failing to install parts on DEFENDANT's clients' machines, which included but were not limited  
to, printers.





1 PAGA, the California Legislature specified that "it was ... in the public interest to allow aggrieved  
2 employees, acting as private attorneys general to recover civil penalties for Labor Code violations  
3 ..." (Stats. 2003, ch. 906, § 1). Accordingly, PAGA claims cannot be subject to arbitration.

4 141. PLAINTIFF, and such persons that may be added from time to time who satisfy  
5 the requirements and exhaust the administrative procedures under the Private Attorney General  
6 Act, bring this Representative Action on behalf of the State of California with respect to  
7 themselves and all individuals who are or previously were employed by DEFENDANT and  
8 classified as non-exempt employees in California during the time period of February 8, 2020 until  
9 the present (the "AGGRIEVED EMPLOYEES").

10 142. On February 8, 2021, PLAINTIFF gave written notice by certified mail to the  
11 Labor and Workforce Development Agency (the "Agency") and the employer of the  
12 specific provisions of this code alleged to have been violated as required by Labor Code § 2699.3.  
13 See **Exhibit #2**, attached hereto and incorporated by this reference herein. The statutory waiting  
14 period for PLAINTIFF to add these allegations to the Complaint has expired. As a result,  
15 pursuant to Section 2699.3, PLAINTIFF may now commence a representative civil action under  
16 PAGA pursuant to Section 2699 as the proxy of the State of California with respect to all  
17 AGGRIEVED EMPLOYEES as herein defined.

18 143. The policies, acts and practices heretofore described were and are an unlawful  
19 business act or practice because Defendant (a) failed to properly record and pay PLAINTIFF and  
20 the other AGGRIEVED EMPLOYEES for all of the hours they worked, including minimum wage  
21 and overtime wages in violation of the Wage Order, (b) failed to provide meal and rest breaks, (c)  
22 failed to provide accurate itemized wage statements, and (d) failed to timely pay wages, all in  
23 violation of the applicable Labor Code sections listed in Labor Code §2699.5, including but not  
24 limited to Labor Code §§ 201, 202, 203, 204, 206.5, 210, 226, 226.7, 246, 510, 512, 558, 1194,  
25 1197, 1197.1, 1198 & 2802, and the applicable Industrial Wage Order(s), and thereby gives rise  
26 to statutory penalties as a result of such conduct. PLAINTIFF hereby seeks recovery of civil  
27 penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as the  
28

1 representative of the State of California for the illegal conduct perpetrated on PLAINTIFF and  
2 the other AGGRIEVED EMPLOYEES.

3 144. To the extent that any of the conduct and violations alleged herein did not affect  
4 PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations that  
5 affected other AGGRIEVED EMPLOYEES. (*Carrington v. Starbucks Corp.* (2018) 30  
6 Cal.App.5th 504, 519; See also *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App.  
7 5th 745, 751 [“PAGA allows an “aggrieved employee”—a person affected by at least one Labor  
8 Code violation committed by an employer—to pursue penalties for all the Labor Code violations  
9 committed by that employer.”], Emphasis added, reh'g denied (June 13, 2018).)

10 **PRAYER FOR RELIEF**

11 WHEREFORE, PLAINTIFF pray for a judgment against each DEFENDANT, jointly and  
12 severally, as follows:

13 1. On behalf of the CALIFORNIA CLASS:

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

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

- 25 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, and  
26 Ninth Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a  
27 class action pursuant to Cal. Code of Civ. Proc. § 382;
- 28 b. Compensatory damages, according to proof at trial, including compensatory

1 damages for minimum wages, overtime wages, unreimbursed expenses, and other  
2 compensation due to PLAINTIFF and the other members of the CALIFORNIA  
3 LABOR SUB-CLASS, during the applicable CALIFORNIA LABOR SUB-  
4 CLASS PERIOD plus interest thereon at the statutory rate;

5 c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and  
6 the applicable IWC Wage Order;

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

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

15 f. The statutory damages and an award of costs for violation of Cal. Lab. Code § 246.

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

18 a. Recovery of civil penalties as prescribed by the Labor Code Private Attorneys  
19 General Act of 2004.

20 4. On PLAINTIFF'S Tenth and Eleventh Causes of Action:

21 a. For all special damages which were sustained as a result of DEFENDANT's  
22 conduct, including but not limited to, back pay, front pay, lost compensation and  
23 job benefits that PLAINTIFF would have received but for the practices of  
24 DEFENDANT;

25 b. For all exemplary damages, according to proof, which were sustained as a result of  
26 DEFENDANT's conduct.

27 c. An award of interest, including prejudgment interest at the legal rate;

28 d. Such other and further relief as the Court deems just and equitable; and




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- e. An award of penalties, attorneys’ fees and costs of suit, as allowable under the law.
- 5. On all claims:
  - a. An award of interest, including prejudgment interest at the legal rate;
  - b. Such other and further relief as the Court deems just and equitable; and
  - c. An award of penalties, attorneys’ fees and costs of suit, as allowable under the law, including, but not limited to, pursuant to Labor Code § 218.5, § 226, §1194 and/or §1197.

DATED: May 17, 2021

**ZAKAY LAW GROUP, APLC**


By:   
Shani O. Zakay  
Attorney for Plaintiffs

**DEMAND FOR A JURY TRIAL**

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

DATED: May 218, 2021

**ZAKAY LAW GROUP, APLC**

By:   
Shani O. Zakay  
Attorney for Plaintiffs

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**EXHIBIT #1**



## DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711  
<http://www.dfeh.ca.gov> | Email: [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

May 17, 2021

RE: **Notice of Filing of Discrimination Complaint**  
DFEH Matter Number: 202105-13577117  
Right to Sue: Abundis / IMAGE 2000

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

This matter may qualify for DFEH's Small Employer Family Leave Mediation pilot program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in DFEH's free voluntary mediation service. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in DFEH's free voluntary mediation service. A request for mediation must be made within 30 days of receipt of the Notice of Case Closure and Right to Sue. If mediation is requested, the employee is prohibited from filing a civil action until mediation is complete. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from DFEH's receipt of a mediation request under section 12945.21 until mediation is complete. To request DFEH Small Employer Family Leave Mediation, email [DRDOnlineRequests@dfeh.ca.gov](mailto:DRDOnlineRequests@dfeh.ca.gov) and include the DFEH matter number indicated on the Right to Sue notice.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to DFEH is requested or required.

Sincerely,

Department of Fair Employment and Housing



## DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711  
<http://www.dfeh.ca.gov> | Email: [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

May 17, 2021

Sergio Abundis  
3990 Old Town Avenue, Suite C204  
San Diego, California 92110

RE: **Notice of Case Closure and Right to Sue**  
DFEH Matter Number: 202105-13577117  
Right to Sue: Abundis / IMAGE 2000

Dear Sergio Abundis:

This letter informs you that the above-referenced complaint filed with the Department of Fair Employment and Housing (DFEH) has been closed effective May 17, 2021 because an immediate Right to Sue notice was requested.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

This matter may qualify for DFEH's Small Employer Family Leave Mediation pilot program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in DFEH's free voluntary mediation service. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in DFEH's free voluntary mediation service. A request for mediation must be submitted to the DFEH within 30 days of receipt of the Notice of Case Closure and Right to Sue. If mediation is requested, the employee is prohibited from filing a civil action until mediation is complete. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from DFEH's receipt of a mediation request under section 12945.21 until mediation is complete. To request DFEH Small Employer Family Leave Mediation, email [DRDOnlineRequests@dfeh.ca.gov](mailto:DRDOnlineRequests@dfeh.ca.gov) and include the DFEH matter number indicated on the Right to Sue notice.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,



## DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711  
<http://www.dfeh.ca.gov> | Email: [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

Department of Fair Employment and Housing

1                                   **COMPLAINT OF EMPLOYMENT DISCRIMINATION**  
2                                   **BEFORE THE STATE OF CALIFORNIA**  
3                                   **DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING**  
4                                   **Under the California Fair Employment and Housing Act**  
   **(Gov. Code, § 12900 et seq.)**

5 **In the Matter of the Complaint of**

6 Sergio Abundis

DFEH No. 202105-13577117

7                                   Complainant,

8 vs.

9 IMAGE 2000  
26037 HUNTINGTON LANE  
SANTA CLARITA, California 91355

10                                  Respondents

11 \_\_\_\_\_  
12 **1.** Respondent **IMAGE 2000** is an **employer IMAGE 2000** subject to suit under the California  
13 Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

14  
15 **2.** Complainant **Sergio Abundis**, resides in the City of **San Diego**, State of **California**.

16  
17 **3.** Complainant alleges that on or about **October 16, 2020**, respondent took the following adverse actions:

18 **Complainant experienced retaliation** because complainant reported or resisted any form  
19 of discrimination or harassment, participated as a witness in a discrimination or harassment  
20 complaint and as a result was terminated.

21 **Additional Complaint Details:** COMPLAINANT is informed and believes, and upon such  
22 information and belief, that, during COMPLAINANT's employment with RESPONDENT,  
23 RESPONDENT'S employees engaged in unlawful conduct by purposely failing to install  
24 service parts on RESPONDENT's clients' machines, including but not limited to, printers. As  
25 stated herein, RESPONDENT provides office technology, software solutions, and printing  
26 services to its clients. COMPLAINANT believes that RESPONDENT and RESPONDENT's  
27 employees were purposely failing to install expensive parts on, including but not limited to,  
28 their clients' printers in order to unfairly cheat the system and unfairly profit off of  
RESPONDENT's own clients. COMPLAINANT reported RESPONDENT'S unlawful conduct  
to RESPONDENT's supervisors on or around January of 2020, but COMPLAINANT's

1 reports fell on deaf ears. Instead, RESPONDENT furloughed COMPLAINANT in or around  
2 August of 2020 and was terminated shortly thereafter in October of 2020. COMPLAINANT  
3 believes he was terminated for reporting RESPONDENT's illegal conduct.  
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1 VERIFICATION

2 I, **Jackland Hom**, am the **Attorney** in the above-entitled complaint. I have read the  
3 foregoing complaint and know the contents thereof. The matters alleged are based  
4 on information and belief, which I believe to be true.

5 On May 17, 2021, I declare under penalty of perjury under the laws of the State of  
6 California that the foregoing is true and correct.

7 **San Diego, CA**

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**EXHIBIT #2**



ZAKAY LAW GROUP  
A PROFESSIONAL LAW CORPORATION

Client #35101

February 8, 2021

**Via Online Filing to LWDA and Certified Mail to Defendant**  
**Labor and Workforce Development Agency**  
Online Filing

<b>IMAGE 2000</b> Joseph Blatchford 26037 Huntington Lane Santa Clarita, CA 91355	
--	--

**Re: Notice of Violations of California Labor Code Sections 201, 202, 203, 204, 206.5, 246, 210, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198 & 2802, Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5**

Dear Sir/Madam:

Our offices represent Plaintiff Sergio Abundis (“Plaintiff”), and other aggrieved employees in a proposed lawsuit against Image 2000 (“Defendant”). Plaintiff was employed by Defendant in California from October of 2012 to October 16, 2020 as a non-exempt employee, entitled to payment of all wages and the legally required meal and rest breaks, as well as certain non-discretionary incentive payments. Defendant, however, unlawfully failed to record and pay Plaintiff and other aggrieved employees for all of their time worked, and for all of their meal breaks and rest breaks. Defendant also failed to reimburse Plaintiff and other aggrieved employees for business-related expenses. Further, Defendant failed to properly calculate the regular rate of pay for purposes of compensating paid overtime compensation, sick time, and/or vacation pay to Plaintiff and the aggrieved employees. As a consequence of the aforementioned violations, Plaintiff further contends that Defendant failed to provide accurate wage statements to him, and other aggrieved employees, in violation of California Labor Code section 226(a). Said conduct, in addition to the foregoing, violates Labor Code §§ 201, 202, 203, 204, 206.5, 210, 226, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1, 1198 & 2802, violates the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the proposed Complaint by Plaintiff against Defendant, which (1) identifies the alleged violations, (2) details the facts and theories which support the alleged violations, (3) details the specific work performed by Plaintiff, (4) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to

Plaintiff, and (5) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2695, *et seq.* The filing fee of \$75 is being mailed to the Department of Industrial Relations Accounting unit with an identification of the Plaintiff, the Defendant and the notice. The lawsuit consists of other aggrieved employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statute of 2004 on behalf of Plaintiff and all aggrieved California employees.

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

Sincerely,

A handwritten signature in blue ink, appearing to read 'Shani O. Zakay', with a stylized flourish at the end.

Shani O. Zakay  
Attorney for Plaintiff

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

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

8 Attorneys for Plaintiffs

9  
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**IN AND FOR THE COUNTY OF LOS ANGELES**

11 SERGIO ABUNDIS, on behalf of himself  
12 and on behalf of all persons similarly  
situated,

13 Plaintiffs,

14 v.

15 IMAGE 2000, a California Corporation; and  
16 DOES 1-50, Inclusive,

17 DEFENDANT.

Case No:

**CLASS ACTION COMPLAINT FOR:**

- 1) UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §17200 *et seq*;
- 2) FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
- 3) FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq*;
- 4) FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 5) FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 6) FAILURE TO 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 and 226.2;
- 8) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
- 9) UNPAID SICK PAY AND FAILURE TO PROVIDE PAID SICK LEAVE BALANCE IN VIOLATION OF CAL. LAB. CODE §§ 246, *et seq.*;
- 10) RETALIATION IN VIOLATION OF CAL. LAB. CODE § 1102.5;
- 11) WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY.

**DEMAND FOR A JURY TRIAL**

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

4 **PRELIMINARY ALLEGATIONS**

5 1. Defendant IMAGE 2000 (“DEFENDANT”) is a California corporation and at all  
6 relevant times mentioned herein conducted and continues to conduct substantial and regular  
7 business throughout California.

8 2. DEFENDANT is a California Corporation that provides office technology,  
9 software solutions, and printing services to its clients. DEFENDANT operates multiple locations  
10 in California is headquartered in Los Angeles, California.

11 3. PLAINTIFF was employed by DEFENDANT in California as a non-exempt  
12 employee entitled to minimum wages, overtime pay and meal and rest periods from October of  
13 2012 to October 16, 2020.

14 4. PLAINTIFF brings this Class Action on behalf of himself and a California class,  
15 defined as all individuals who are or previously were employed by DEFENDANT in California  
16 and classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the  
17 period beginning four (4) years prior to the filing of the Complaint and ending on the date as  
18 determined by the Court (the “CALIFORNIA CLASS PERIOD”). The amount in controversy  
19 for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars  
20 (\$5,000,000.00).

21 5. PLAINTIFF brings this Class Action on behalf of himself and a CALIFORNIA  
22 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during  
23 the CALIFORNIA CLASS PERIOD caused by DEFENDANT’S uniform policy and practice  
24 which failed to lawfully compensate these employees for all their time worked. DEFENDANT’S  
25 uniform policy and practice alleged herein is an unlawful, unfair and deceptive business practice  
26 whereby DEFENDANT retained and continues to retain wages due to PLAINTIFF and the other  
27 members of the CALIFORNIA CLASS. PLAINTIFF and the other members of the  
28 CALIFORNIA CLASS seek an injunction enjoining such conduct by DEFENDANT in the future,  
relief for the named PLAINTIFF and the other members of the CALIFORNIA CLASS who have



1 during their meal breaks, spending time under DEFENDANT’S control for which they were not  
2 compensated. Moreover, PLAINTIFF and other CALIFORNIA CLASS Members were not  
3 compensated for work they performed while “on-call” for DEFENDANT. From time to time,  
4 DEFENDANT failed to pay PLAINTIFF and other CALIFORNIA CLASS Members the full  
5 amount of overtime compensation earned. Specifically, PLAINTIFF and other CALIFORNIA  
6 CLASS Members from time to time worked overtime hours for DEFENDANT. However, in order  
7 to avoid paying PLAINTIFF and other CALIFORNIA CLASS Members at one-and-one half  
8 times their hourly rate, DEFENDANT instead only compensated its employees at their hourly  
9 rate and allowed them to arrive at work an hour late or leave an hour earlier. DEFENDANT’S  
10 unlawful compensation policy resulted in PLAINTIFF and other CALIFORNIA CLASS  
11 Members being severely undercompensated for overtime compensation. As a result, the  
12 PLAINTIFF and other CALIFORNIA CLASS Members forfeited minimum wage and overtime  
13 compensation by regularly working without their time being accurately recorded and without  
14 compensation at the applicable minimum wage and overtime rates. DEFENDANT’S uniform  
15 policy and practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all  
16 time worked is evidenced by DEFENDANT’S business records.

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

21 10. The second component of PLAINTIFF’S and other CALIFORNIA CLASS  
22 Members’ compensation was DEFENDANT’S non-discretionary incentive program that paid  
23 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their  
24 performance for DEFENDANT. The non-discretionary incentive program provided all  
25 employees paid on an hourly basis with incentive compensation when the employees met the  
26 various performance goals set by DEFENDANT. However, when calculating the regular rate of  
27 pay in order to pay sick and vacation pay to PLAINTIFF and other CALIFORNIA CLASS  
28 Members, DEFENDANT failed to include the incentive compensation as part of the employees’

1 “regular rate of pay” for purposes of calculating overtime, sick and/or vacation pay. Management  
2 and supervisors described the incentive program to potential and new employees as part of the  
3 compensation package. As a matter of law, the incentive compensation received by PLAINTIFF  
4 and other CALIFORNIA CLASS Members must be included in the “regular rate of pay.” The  
5 failure to do so has resulted in a systematic underpayment of overtime, sick and/or vacation  
6 compensation to PLAINTIFF and other CALIFORNIA CLASS Members by DEFENDANT.  
7 Specifically, California Labor Code Section 246 mandates that paid sick time for non-employees  
8 shall be calculated in the same manner as the regular rate of pay for the workweek in which the  
9 non-exempt employee uses paid sick time, whether or not the employee actually works overtime  
10 in that workweek. DEFENDANT’S conduct, as articulated herein, by failing to include the  
11 incentive compensation as part of the “regular rate of pay” for purposes of sick pay compensation  
12 was in violation of Cal. Lab. Code § 246.

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

24 12. During the CALIFORNIA CLASS PERIOD, from time to time, PLAINTIFF and  
25 other CALIFORNIA CLASS Members were also required to work in excess of four (4) hours  
26 without being provided ten (10) minute rest periods. Further, these employees were denied their  
27 first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4)  
28 hours, a first and second rest period of at least ten (10) minutes for some shifts worked of between



1 six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for  
2 some shifts worked of ten (10) hours or more. When they did have an opportunity to take their  
3 rest breaks, PLAINTIFF and the CALIFORNIA CLASS Members were often interrupted and  
4 required by DEFENDANT to work during their rest breaks. When they did have an opportunity  
5 to take their rest breaks, PLAINTIFF and the CALIFORNIA CLASS Members were required to  
6 remain on-duty and on-call, and subject to DEFENDANT's control in accordance with  
7 DEFENDANT's written policy. PLAINTIFF and other CALIFORNIA CLASS Members were  
8 also not provided with one hour wages in lieu thereof. As a result of their rigorous work schedules,  
9 PLAINTIFF and other CALIFORNIA CLASS Members were periodically denied their proper  
10 rest periods by DEFENDANT and DEFENDANT'S managers.

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

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

1 to illegally profit and gain an unfair advantage over competitors who complied with the law. To  
2 the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS against  
3 DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted accordingly.

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

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

20 17. Aside from the violations listed herein, DEFENDANT failed to issue to  
21 PLAINTIFF an itemized wage statement that lists all the requirements under California Labor  
22 Code 226 *et seq.* As a result, from time to time DEFENDANT provided PLAINTIFF and the other  
23 members of the CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code §  
24 226.

25 18. California Labor Code Section 246 mandates that paid sick time for non-employees  
26 shall be calculated in the same manner as the regular rate of pay for the workweek in which the  
27 non-exempt employee uses paid sick time, whether or not the employee actually works overtime  
28 in that workweek.

1           19. California Labor Code Section 246, *et seq.* requires an employer to furnish its  
2 employees with written wage statements setting forth the amount of paid sick leave available.  
3 From time to time, DEFENDANT violated Cal. Lab. Code § 246 by failing to furnish PLAINTIFF  
4 and other members of the CALIFORNIA CLASS with wage statements setting forth the amount  
5 of paid sick leave available.

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

17           21. In the course of their employment, DEFENDANT required PLAINTIFF and other  
18 CALIFORNIA CLASS Members to use DEFENDANT's work-issued vehicles as a result of and  
19 in furtherance of their job duties as employees for DEFENDANT. However, DEFENDANT  
20 unlawfully required PLAINTIFF and other CALIFORNIA CLASS Members to incur personal  
21 business expenses for the use of DEFENDANTs work-issued vehicles by way of a deduction from  
22 their wages. As a result, in the course of their employment with DEFENDANT the PLAINTIFF  
23 and other members of the CALIFORNIA CLASS incurred unreimbursed business expenses and  
24 an unlawful deduction of wages which included, but were not limited to, costs related to the use  
25 of DEFENDANT's own work-issued vehicles all on behalf of and for the benefit of  
26 DEFENDANT.

27           22. By reason of this uniform conduct applicable to PLAINTIFF and all  
28 CALIFORNIA CLASS Members, DEFENDANT committed acts of unfair competition in

1 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the  
2 “UCL”), by engaging in a company-wide policy and procedure which failed to accurately  
3 calculate and record all missed meal and rest periods by PLAINTIFF and other CALIFORNIA  
4 CLASS Members, and failed to pay PLAINTIFF and other CALIFORNIA CLASS Members the  
5 correct overtime rate. The proper recording of these employees’ missed meal and rest breaks, and  
6 proper payment of minimum wages and overtime, is the DEFENDANT’S burden. As a result of  
7 DEFENDANT’S intentional disregard of the obligation to meet this burden, DEFENDANT failed  
8 to properly pay all required compensation for work performed by the members of the  
9 CALIFORNIA CLASS and violated the California Labor Code and regulations promulgated  
10 thereunder as herein alleged.

11         23.         Specifically, as to PLAINTIFF’S pay, DEFENDANT provided compensation to  
12 him in the form of two components. One component of PLAINTIFF’S compensation was a base  
13 hourly wage. The second component of PLAINTIFF’S compensation was a non-discretionary  
14 incentive wage. DEFENDANT paid the incentive wages, so long as PLAINTIFF met certain  
15 predefined performance requirements. PLAINTIFF met DEFENDANT’S predefined eligibility  
16 performance requirements in various pay periods throughout his employment with DEFENDANT  
17 and DEFENDANT paid PLAINTIFF the incentive wages. During these pay periods in which  
18 PLAINTIFF was paid the non-discretionary incentive wages by DEFENDANT, PLAINTIFF was  
19 also paid wages for sick and/or vacation pay, but DEFENDANT never included the incentive  
20 compensation in PLAINTIFF’S regular rate of pay for the purposes of calculating what should  
21 have been PLAINTIFF’S accurate rate for sick and/or vacation pay, and thereby underpaid  
22 PLAINTIFF for sick and/or vacation pay throughout his employment with DEFENDANT. The  
23 incentive compensation paid by DEFENDANT constituted wages within the meaning of the  
24 California Labor Code and thereby should have been part of PLAINTIFF’S “regular rate of pay.”  
25 PLAINTIFF was from time to time unable to take off duty meal and rest breaks and were not fully  
26 relieved of duty for their rest and meal periods. PLAINTIFF were required to perform work as  
27 ordered by DEFENDANT for more than five (5) hours during a shift without receiving an off-  
28 duty meal break. Further, DEFENDANT failed to provide PLAINTIFF with a second off-duty

1 meal period each workday in which they were required by DEFENDANT to work ten (10) hours  
2 of work. When DEFENDANT provided PLAINTIFF with a rest break, they required  
3 PLAINTIFF to remain on the premises, on-duty and on-call, for the rest break. PLAINTIFF  
4 therefore forfeited meal and rest breaks without additional compensation and in accordance with  
5 DEFENDANT'S strict corporate policy and practice. Further, as a result of DEFENDANT's  
6 unlawful policy to only pay overtime wages for pre-approved overtime hours, PLAINTIFF were  
7 not fully compensated for all time spent working for and under DEFENDANT's control.  
8 Moreover, DEFENDANT also provided PLAINTIFF with a paystub that failed to accurately  
9 display PLAINTIFF' correct time worked and wages, as well as payments for missed meal and  
10 rest periods for certain pay periods in violation of Cal. Lab. Code § 226(a). Further,  
11 DEFENDANT from time to time failed to provide PLAINTIFF with a wage statement setting  
12 forth the amount of paid sick leave available to him, as required by Cal. Lab. Code § 246, *et seq.*  
13 To date, DEFENDANT has not fully paid PLAINTIFF the overtime compensation still owed to  
14 them or any penalty wages owed to them under Cal. Lab. Code § 203. The amount in controversy  
15 for PLAINTIFF individually do not exceed the sum or value of \$75,000.

16 24. Further, specifically as to PLAINTIFF, PLAINTIFF is informed and believes, and  
17 upon such information and belief, that, during PLAINTIFF's employment with DEFENDANT,  
18 DEFENDANT'S employees engaged in unlawful conduct by purposely failing to install service  
19 parts on DEFENDANT's clients' machines, including but not limited to, printers. As stated  
20 herein, DEFENDANT provides office technology, software solutions, and printing services to its  
21 clients. PLAINTIFF believes that DEFENDANT and DEFENDANT's employees were purposely  
22 failing to install expensive parts on, including but not limited to, their clients' printers in order to  
23 unfairly cheat the system and unfairly profit off of DEFENDANT's own clients. PLAINTIFF  
24 reported DEFENDANT'S unlawful conduct to DEFENDANT's supervisors on or around January  
25 of 2020, but PLAINTIFF's reports fell on deaf ears. Instead, DEFENDANT furloughed  
26 PLAINTIFF in or around August of 2020 and was terminated shortly thereafter. PLAINTIFF  
27 believes he was terminated for reporting DEFENDANT's illegal conduct. PLAINTIFF filed a  
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1 complaint with the California Department of Fair Employment and Housing and received a “right  
2 to sue” letter on [REDACTED] thereby exhausting his administrative remedies.

3 **JURISDICTION AND VENUE**

4 25. 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 26. Venue is proper in this Court pursuant to California Code of Civil Procedure,  
9 Sections 395 and 395.5, because DEFENDANT (i) currently maintains and at all relevant times  
10 maintained offices and facilities in this County and/or conducts substantial business in this  
11 County, and (ii) committed the wrongful conduct herein alleged in this County against members  
12 of the CALIFORNIA CLASS and CALIFORNIA LABOR SUB-CLASS

13 **THE CALIFORNIA CLASS**

14 27. 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 DEFENDANT 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 28. 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 29. DEFENDANT, 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 DEFENDANT systematically failed to record all meal

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

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

13 31. The CALIFORNIA CLASS is so numerous that joinder of all CALIFORNIA  
14 CLASS Members is impracticable.

15 32. DEFENDANT uniformly violated the rights of the CALIFORNIA CLASS under  
16 California law by:

- 17 a. Violating the California Unfair Competition Laws, Cal. Bus. & Prof. Code §§  
18 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place company  
19 policies, practices and procedures that failed to pay all wages due the  
20 CALIFORNIA CLASS for all time worked;
- 21 b. Committing an act of unfair competition in violation of the California Unfair  
22 Competition Laws, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, by failing to provide  
23 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS  
24 members;
- 25 c. Committing an act of unfair competition in violation of, Cal. Bus. & Prof. Code  
26 §§ 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place  
27 company policies, practices and procedures that uniformly and systematically  
28 failed to record and pay PLAINTIFF and other members of the CALIFORNIA

1 CLASS for all time worked, including minimum wages owed and overtime wages  
2 owed for work performed by these employees; and

3 d. Committing an act of unfair competition in violation of the California Unfair  
4 Competition Laws, Cal. Bus. & Prof. Code §§ 17200 *et seq.*, by violating Cal. Lab.  
5 Code § 2802 by failing to reimburse PLAINTIFF and the CALIFORNIA CLASS  
6 members with necessary expenses incurred in the discharge of their job duties.

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

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

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

15 c. The claims of the representative PLAINTIFF are typical of the claims of each  
16 member of the CALIFORNIA CLASS. PLAINTIFF, like all the other members of  
17 the CALIFORNIA CLASS, were classified as a non- exempt employee paid on an  
18 hourly basis who was subjected to the DEFENDANT’S deceptive practice and  
19 policy which failed to provide the legally required meal and rest periods to the  
20 CALIFORNIA CLASS and thereby systematically underpaid compensation to  
21 PLAINTIFF and CALIFORNIA CLASS. PLAINTIFF sustained economic injury  
22 as a result of DEFENDANT’S employment practices. PLAINTIFF and the  
23 members of the CALIFORNIA CLASS were and are similarly or identically  
24 harmed by the same unlawful, deceptive, unfair and pervasive pattern of  
25 misconduct engaged in by DEFENDANT; and

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



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

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

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

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

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

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

23 i. With respect to the First Cause of Action, the final relief on behalf of the  
24 CALIFORNIA CLASS sought does not relate exclusively to restitution  
25 because through this claim PLAINTIFF seek declaratory relief holding that  
26 the DEFENDANT'S policy and practices constitute unfair competition,  
27 along with declaratory relief, injunctive relief, and incidental equitable  
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relief as may be necessary to prevent and remedy the conduct declared to constitute unfair competition;

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

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

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

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

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

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

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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.

35. 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 DEFENDANT’S 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;
- c. The members of the CALIFORNIA CLASS are so numerous that it is impractical to bring all members of the CALIFORNIA CLASS before the Court;
- d. PLAINTIFF, and the other CALIFORNIA 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 DEFENDANT’s actions have inflicted upon the CALIFORNIA CLASS;

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

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

18 **THE CALIFORNIA LABOR SUB-CLASS**

19 37. PLAINTIFF further bring the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth,  
20 and Ninth causes of Action on behalf of a California sub-class, defined as all members of the  
21 CALIFORNIA CLASS classified as non-exempt employees (the “CALIFORNIA LABOR SUB-  
22 CLASS”) at any time during the period three (3) years prior to the filing of the original complaint  
23 and ending on the date as determined by the Court (the “CALIFORNIA LABOR SUB-CLASS  
24 PERIOD”) pursuant to Cal. Code of Civ. Proc. § 382. The amount in controversy for the  
25 aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five million dollars  
26 (\$5,000,000.00).

27 38. DEFENDANT, as a matter of company policy, practice and procedure, and in  
28 violation of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order

1 requirements, and the applicable provisions of California law, intentionally, knowingly, and  
2 willfully, engaged in a practice whereby DEFENDANT failed to correctly pay for the time  
3 worked by PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS, and  
4 other wages and premiums owed to these employees, even though DEFENDANT enjoyed the  
5 benefit of this work, required employees to perform this work and permitted or suffered to permit  
6 this overtime work. DEFENDANT has uniformly denied these CALIFORNIA LABOR SUB-  
7 CLASS Members wages to which these employees are entitled in order to unfairly cheat the  
8 competition and unlawfully profit. To the extent equitable tolling operates to toll claims by the  
9 CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR SUB-  
10 CLASS PERIOD should be adjusted accordingly.

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

16         40. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all  
17 CALIFORNIA LABOR SUB-CLASS Members is impracticable

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

- 20             a. Whether DEFENDANT unlawfully failed to correctly calculate and pay  
21                 compensation due to members of the CALIFORNIA LABOR SUB- CLASS for  
22                 missed meal and rest breaks in violation of the California Labor Code and  
23                 California regulations and the applicable California Wage Order;
- 24             b. Whether DEFENDANT failed to provide PLAINTIFF and the other members of  
25                 the CALIFORNIA LABOR SUB-CLASS with legally required uninterrupted  
26                 thirty (30) minute meal breaks and rest periods;

- 1 c. Whether DEFENDANT failed to provide PLAINTIFF and the other members of
- 2 the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage
- 3 statements;
- 4 d. Whether DEFENDANT unlawfully failed to correctly calculate and pay overtime,
- 5 sick and/or vacation compensation to members of the CALIFORNIA LABOR
- 6 SUB-CLASS in violation of the California Labor Code and California regulations
- 7 and the applicable California Wage Order;
- 8 e. Whether the members of the CALIFORNIA LABOR SUB-CLASS are entitled to
- 9 compensation for time worked, including overtime worked, under the overtime
- 10 pay requirements of California law;
- 11 f. Whether DEFENDANT unlawfully failed to furnish written wage statements
- 12 setting forth the amount of paid sick leave available to PLAINTIFF and other
- 13 members of the CALIFORNIA LABOR SUB-CLASS;
- 14 g. Whether DEFENDANT has engaged in unfair competition by the above-listed
- 15 conduct;
- 16 h. The proper measure of damages and penalties owed to the members of the
- 17 CALIFORNIA LABOR SUB-CLASS; and
- 18 i. Whether DEFENDANT's conduct was willful.

19 42. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS  
20 under California law by:

- 21 a. Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to correctly pay PLAINTIFF
- 22 and the members of the CALIFORNIA LABOR SUB-CLASS all wages due for
- 23 overtime worked, for which DEFENDANT are liable pursuant to Cal. Lab. Code
- 24 § 1194;
- 25 b. Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to accurately
- 26 pay PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS
- 27 the correct minimum wage pay for which DEFENDANT are liable pursuant to
- 28 Cal. Lab. Code §§ 1194 and 1197;

- 1 c. Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFF and
- 2 the other members of the CALIFORNIA CLASS with all legally required off-duty,
- 3 uninterrupted thirty (30) minute meal breaks and the legally required rest breaks;
- 4 d. Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the
- 5 members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized
- 6 statement in writing showing all accurate rates in effect during the pay period and
- 7 the corresponding amount of time worked at each overtime rate by the employee;
- 8 e. Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and the
- 9 CALIFORNIA CLASS members with necessary expenses incurred in the
- 10 discharge of their job duties;
- 11 f. Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an
- 12 employee is discharged or quits from employment, the employer must pay the
- 13 employee all wages due without abatement, by failing to tender full payment
- 14 and/or restitution of wages owed or in the manner required by California law to
- 15 the members of the CALIFORNIA LABOR SUB-CLASS who have terminated
- 16 their employment; and
- 17 g. Violating Cal. Lab. Code § 246, which provides that an employer must furnish its
- 18 employees with written wage statements setting forth the amount of paid sick leave
- 19 available to them.

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

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

3 c. The claims of the representative PLAINTIFF are typical of the claims of each  
4 member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF, like all the  
5 other members of the CALIFORNIA LABORSUB-CLASS, was a non-exempt  
6 employee paid on an hourly basis who was subjected to the DEFENDANT’S  
7 practice and policy which failed to pay the correct amount of wages due to the  
8 CALIFORNIA LABOR SUB-CLASS. PLAINTIFF sustained economic injury as  
9 a result of DEFENDANT’S employment practices. PLAINTIFF and the members  
10 of the CALIFORNIA LABOR SUB-CLASS were and are similarly or identically  
11 harmed by the same unlawful, deceptive, unfair and pervasive pattern of  
12 misconduct engaged in by DEFENDANT; and

13 d. The representative PLAINTIFF will fairly and adequately represent and protect  
14 the interest of the CALIFORNIA LABOR SUB-CLASS, and has retained counsel  
15 who are competent and experienced in Class Action litigation. There are no  
16 material conflicts between the claims of the representative PLAINTIFF and the  
17 members of the CALIFORNIA LABOR SUB-CLASS that would make class  
18 certification inappropriate. Counsel for the CALIFORNIA LABOR SUB-CLASS  
19 will vigorously assert the claims of all CALIFORNIA LABOR SUB-CLASS  
20 Members.

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

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

27 i. Inconsistent or varying adjudications with respect to individual members  
28 of the CALIFORNIA LABOR SUB-CLASS which would establish



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incompatible standards of conduct for the parties opposing the CALIFORNIA LABOR SUB-CLASS; or

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

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

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

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

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

1. Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA LABOR SUB-CLASS, which

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would establish incompatible standards of conduct for the DEFENDANT; 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 DEFENDANT, which may adversely affect an individual’s job with DEFENDANT 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.

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

- a. The questions of law and fact common to the CALIFORNIA LABOR SUB-CLASS predominate over any question affecting only individual CALIFORNIA LABOR SUB-CLASS Members;
- b. A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA LABOR SUB-CLASS because in the context of employment litigation a substantial number of individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting

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- 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 DEFENDANT’S actions have inflicted upon the CALIFORNIA LABOR SUB-CLASS;
  - f. There is a community of interest in ensuring that the combined assets of DEFENDANT are sufficient to adequately compensate the members of the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
  - g. DEFENDANT has 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 DEFENDANT. The CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA CLASS Members classified as non-exempt employees during the CALIFORNIA LABOR SUB-CLASS PERIOD; and
  - i. Class treatment provides manageable judicial treatment calculated to bring an efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of DEFENDANT as to the members of the CALIFORNIA LABOR SUB-CLASS.

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 DEFENDANT)**

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

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

10 48. 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 49. 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, 206.5, 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 50. 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 this Court should issue equitable and injunctive relief pursuant to Section 17203

1 of the California Business & Professions Code, including restitution of wages wrongfully  
2 withheld.

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

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

15 53. By the conduct alleged herein, DEFENDANT'S practices were also unfair and  
16 deceptive in that DEFENDANT'S uniform policies, practices and procedures failed to provide  
17 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members.

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

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

26 56. By and through the unlawful and unfair business practices described herein,  
27 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the  
28 other members of the CALIFORNIA CLASS, including earned wages, and has deprived them of

1 valuable rights and benefits guaranteed by law and contract, all to the detriment of these  
2 employees and to the benefit of DEFENDANT so as to allow DEFENDANT to unfairly compete  
3 against competitors who comply with the law.

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

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

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

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

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1 **SECOND CAUSE OF ACTION**

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

4 **(Alleged By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS against ALL**  
5 **DEFENDANT)**

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

9 62. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
10 bring a claim for DEFENDANT’S willful and intentional violations of the California Labor Code  
11 and the Industrial Welfare Commission requirements for DEFENDANT’S failure to accurately  
12 calculate and pay minimum wages to PLAINTIFF and CALIFORNIA CLASS Members.

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

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

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

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

25 67. DEFENDANT’S uniform pattern of unlawful wage and hour practices manifested,  
26 without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result  
27 of implementing a uniform policy and practice that denies accurate compensation to PLAINTIFF  
28 and the other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum wage  
pay.

1           68. 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 LABOR SUB-CLASS.  
4 DEFENDANT acted in an illegal attempt to avoid the payment of all earned wages, and other  
5 benefits in violation of the California Labor Code, the Industrial Welfare Commission  
6 requirements and other applicable laws and regulations.

7           69. As a direct result of DEFENDANT’S unlawful wage practices as alleged herein,  
8 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive  
9 the correct minimum wage compensation for their time worked for DEFENDANT.

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

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

18           72. DEFENDANT knew or should have known that PLAINTIFF and the other  
19 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time  
20 worked. 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 LABOR SUB-CLASS the correct  
24 minimum wages for their time worked.

25           73. In performing the acts and practices herein alleged in violation of California labor  
26 laws, and refusing to compensate members of the CALIFORNIA LABOR SUB-CLASS for all  
27 time worked and provide them with requisite compensation, DEFENDANT acted and continues  
28 to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of  
the CALIFORNIA LABOR SUB-CLASS with conscious and utter disregard for their legal rights,  
or the consequences to them, and with the despicable intent of depriving them of their property



1 and legal rights, and otherwise causing them injury in order to increase company profits at the  
2 expense of these employees.

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

14 **THIRD CAUSE OF ACTION**

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

17 **(Alleged By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS against ALL**  
18 **DEFENDANT)**

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

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

1           77. 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           78. 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           79. 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           80. DEFENDANT maintained a uniform wage practice of paying PLAINTIFF and the  
12 other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct amount  
13 of overtime worked and correct applicable overtime rate for the amount of overtime they worked.  
14 As set forth herein, DEFENDANT'S 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 DEFENDANT in fact failed to  
17 pay these employees the correct applicable overtime wages for all overtime worked.

18           81. DEFENDANT'S 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           82. In committing these violations of the California Labor Code, DEFENDANT  
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. DEFENDANT 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           83. As a direct result of DEFENDANT’S 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           84. 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 himself and the CALIFORNIA LABOR  
10 SUB-CLASS based on DEFENDANT’S violations of non-negotiable, non-waivable rights  
11 provided by the State of California.

12           85. 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           86. DEFENDANT 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           87. By virtue of DEFENDANT’S 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           88. DEFENDANT 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. DEFENDANT 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 DEFENDANT 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 89. 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, DEFENDANT acted  
7 and continues to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other  
8 members of the CALIFORNIA LABOR SUB-CLASS with a conscious and utter disregard for  
9 their legal rights, or the consequences to them, and with the despicable intent of depriving them  
10 of their property and legal rights, and otherwise causing them injury in order to increase company  
11 profits at the expense of these employees.

12 90. 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 DEFENDANT, 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, DEFENDANT'S  
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. DEFENDANT'S 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.

23 **FOURTH CAUSE OF ACTION**

24 **FAILURE TO PROVIDE REQUIRED MEAL PERIODS**

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

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

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



1           96.     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 DEFENDANT and DEFENDANT’S managers. When DEFENDANT 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 DEFENDANT’S premises for those rest breaks.

14           97.     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 rest 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 rest period was not provided.

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

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1 **SIXTH CAUSE OF ACTION**

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

3 **(Cal. Lab. Code §§ 2802)**

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

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

9 100. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

15 101. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by  
16 failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS  
17 members for required expenses incurred in the discharge of their job duties for DEFENDANT's  
18 benefit. In the course of their employment, DEFENDANT required PLAINTIFF and other  
19 CALIFORNIA LABOR SUB-CLASS Members to use DEFENDANT's work-issued vehicles as  
20 a result of and in furtherance of their job duties as employees for DEFENDANT. However,  
21 DEFENDANT unlawfully required PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS  
22 Members to incur personal business expenses for the use of DEFENDANTs work-issued vehicles  
23 by way of a deduction from their wages. As a result, in the course of their employment with  
24 DEFENDANT the PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS  
25 incurred unreimbursed business expenses and an unlawful deduction of wages which included,  
26 but were not limited to, costs related to the use of DEFENDANT's own work-issued vehicles all  
27 on behalf of and for the benefit of DEFENDANT. DEFENDANT'S uniform policy, practice and  
28 procedure was to cause PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members to  
incur personal business expenses from using DEFENDANT'S work-issued vehicles by deducting  
these expenses from PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members'

1 wages. These expenses were necessary to complete their principal job duties. DEFENDANT is  
2 estopped by DEFENDANT’S conduct to assert any waiver of this expectation. Although these  
3 expenses were necessary expenses incurred by PLAINTIFF and the CALIFORNIA LABOR  
4 SUB-CLASS members, DEFENDANT failed to indemnify and reimburse PLAINTIFF and the  
5 CALIFORNIA LABOR SUB-CLASS members for these expenses as an employer is required to  
6 do under the laws and regulations of California.

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

11 **SEVENTH CAUSE OF ACTION**

12 **FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS**

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

14 **(Alleged by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and against all  
15 DEFENDANT)**

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

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

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



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

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

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

106. When DEFENDANT did not accurately record PLAINTIFF’ and other CALIFORNIA CLASS Members’ wages, including overtime wages, owed, DEFENDANT also failed to provide PLAINTIFF and the other members of the CALIFORNIA CLASS with complete and accurate wage statements which failed to show, among other things, the correct overtime rate, the correct number of hours worked, missed meal and rest periods, owed to PLAINTIFF and other CALIFORNIA CLASS Members. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her employees with an accurate itemized wage statement in writing showing, among other things, gross wages earned and all applicable hourly rates in effect during the pay period and the corresponding amount of time worked at each hourly rate. Aside from the violations listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF an itemized wage statement that lists all the requirements under California Labor Code 226 *et seq.* As a result,

1 from time to time DEFENDANT provided PLAINTIFF and the other members of the  
2 CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code § 226.

3 107. DEFENDANT knowingly and intentionally failed to comply with Cal. Labor Code  
4 § 226, causing injury and damages to the PLAINTIFF and the other members of the  
5 CALIFORNIA LABOR SUB-CLASS. These damages include, but are not limited to, costs  
6 expended calculating the correct rates for the overtime worked and the amount of employment  
7 taxes which were not properly paid to state and federal tax authorities. These damages are difficult  
8 to estimate. Therefore, PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
9 CLASS may elect to recover liquidated damages of fifty dollars (\$50.00) for the initial pay period  
10 in which the violation occurred, and one hundred dollars (\$100.00) for each violation in a  
11 subsequent pay period pursuant to Cal. Lab. Code § 226, in an amount according to proof at the  
12 time of trial (but in no event more than four thousand dollars (\$4,000.00) for PLAINTIFF and  
13 each respective member of the CALIFORNIA LABOR SUB-CLASS herein).

14 **EIGHTH CAUSE OF ACTION**

15 **FAILURE TO PAY WAGES WHEN DUE**

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

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

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

22 109. Cal. Lab. Code § 200 provides that:

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

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

4 111. Cal. Lab. Code § 202 provides, in relevant part, that:

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

14 112. There was no definite term in PLAINTIFF’ or any CALIFORNIA LABOR SUB-  
15 CLASS Members’ employment contract.

16 113. Cal. Lab. Code § 203 provides:

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

22 114. The employment of PLAINTIFF and many CALIFORNIA LABOR SUB-CLASS  
23 Members terminated and DEFENDANT has not tendered payment of wages, to these employees  
24 who missed meal and rest breaks, as required by law.

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

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1 **NINTH CAUSE OF ACTION**

2 **UNPAID SICK PAY AND FAILURE TO PROVIDE PAID SICK LEAVE BALANCE**

3 **(Cal. Lab. Code § 246, et seq.)**

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

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

9 117. Cal. Labor Code Sections 246(l)(1) mandates that “[p]aid sick time for nonexempt  
10 employees shall be calculated in the same manner as the regular rate of pay for the workweek in  
11 which the employee uses paid sick time, whether or not the employee actually works overtime in  
12 that workweek.”

13 118. From time-to-time, during the PLAINTIFF and other members of the  
14 CALIFORNIA LABOR SUB-CLASS were compensated at an hourly rate plus either non-  
15 discretionary incentive pay. As a matter of law, the incentive compensation and/or piece-rate  
16 compensation received by PLAINTIFF and other members of the CALIFORNIA LABOR SUB-  
17 CLASS must be included in the “regular rate of pay.”

18 119. From time-to-time during the CLASS PERIOD, in those pay periods where  
19 PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS earned hourly  
20 compensation and either non-discretionary incentive compensation, and took paid sick time,  
21 DEFENDANT failed to properly calculate the regular rate of pay for purposes of compensating  
22 paid sick time by omitting non-discretionary incentive pay from the regular rate of pay.

23 120. DEFENDANT’s uniform policy and practice of omitting non-discretionary  
24 incentive pay and/or piece-rate pay from the regular rate of pay for purposes of paying paid sick  
25 pay, resulted in the underpayment of sick pay wages to PLAINTIFF and other members of the  
26 CALIFORNIA LABOR SUB-CLASS. PLAINTIFF and other members of the CALIFORNIA  
27 LABOR SUB-CLASS therefore request recovery of all unpaid wages, including sick pay wages,  
28 according to proof, interest, statutory costs, as well as the assessment of any statutory penalties  
against DEFENDANT, in a sum as provided by the California Labor Code and/or other applicable

1 statutes. To the extent overtime compensation is determined to be owed to other members of the  
2 CALIFORNIA LABOR SUB-CLASS who have terminated their employment, DEFENDANT's  
3 conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be  
4 entitled to waiting time penalties under Cal. Lab. Code § 203, which penalties are sought herein  
5 on behalf of other members of the CALIFORNIA LABOR SUB-CLASS. DEFENDANT'S  
6 conduct as alleged herein was willful, intentional and not in good faith. Further, PLAINTIFF and  
7 other members of the CALIFORNIA LABOR SUB-CLASS are entitled to seek and recover  
8 statutory costs.

9 121. Cal. Lab. Code § 246(i) provides that:

10 An employer shall provide an employee with written notice that sets forth the  
11 amount of paid sick leave available, or paid time off leave an employer provides  
12 in lieu of sick leave, for use on either the employee's itemized wage statement  
13 described in Section 226 or in a separate writing provided on the designated pay  
14 date with the employee's payment of wages. If an employer provides unlimited  
15 paid sick leave or unlimited paid time off to an employee, the employer may satisfy  
16 this section by indicating on the notice or the employee's itemized wage statement  
17 "unlimited."

18 122. From time to time, DEFENDANT failed to furnish PLAINTIFF and other  
19 members of the CALIFORNIA LABOR SUB-CLASS with written wage statements setting forth  
20 the amount of paid sick leave available to them, as required under Cal. Lab. Code §§ 246, *et seq.*  
21 As a result, PLAINTIFF and other members of the CALIFORNIA LABOR-SUBCLASS are  
22 entitled to seek and recover statutory costs.

### 23 **TENTH CAUSE OF ACTION**

#### 24 **RETALIATION IN VIOLATION OF CAL. LAB. CODE § 1102.5**

25 **(Alleged by PLAINTIFF and against all Defendants)**

26 123. PLAINTIFF realleges and incorporates by this reference, as though fully set forth  
27 herein, the prior paragraphs of this Complaint.

28 124. PLAINTIFF had reasonable cause to believe that DEFENDANT had violated state  
law by, *inter alia*, purposely gaining an unfair and unlawful business advantage by intentionally  
failing to install parts on DEFENDANT's clients' machines, which included but were not limited  
to, printers.

1 125. PLAINTIFF reported and disclosed to DEFENDANT their belief that the law had  
2 been violated.

3 126. DEFENDANT had authority over PLAINTIFF, and had authority to investigate,  
4 discover, or correct the violations raised by PLAINTIFF.

5 127. DEFENDANT retaliated against PLAINTIFF for reporting and disclosing that  
6 information, including by terminating PLAINTIFF's employment on or around October 16, 2020.

7 128. DEFENDANT's conduct was in violation of Cal. Lab. Code § 1102.5.

8 129. As a result of DEFENDANT's actions, PLAINTIFF has suffered substantial losses  
9 in earnings and employment benefits and emotional distress in an amount to be determined  
10 according to proof at trial.

11 130. In doing the acts herein alleged, DEFENDANT acted with malice and oppression,  
12 and with a conscious disregard of PLAINTIFF's rights, and PLAINTIFF is entitled to exemplary  
13 and punitive damages from DEFENDANT in an amount to be determined to punish  
14 DEFENDANT and to deter such wrongful conduct in the future.

15 **ELEVENTH CAUSE OF ACTION**

16 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

17 **(Alleged by PLAINTIFF and against all Defendants)**

18 131. PLAINTIFF realleges and incorporates by this reference, as though fully set forth  
19 herein, the prior paragraphs of this Complaint.

20 132. PLAINTIFF's wrongful termination on or about October 16, 2020 was for a  
21 pretextual reason(s) to disguise DEFENDANT's unlawful employment and business practices  
22 directed at PLAINTIFF and in order to gain an unfair business advantage.

23 133. Within the State of California there exists a substantial and fundamental public  
24 policy, set forth in the California Government Code §12900 et seq., which forbids retaliation and  
25 wrongful termination. Unlawful harassment includes the right to be free from unwanted, offensive  
26 harassment, and the right to protest such conduct without fear of retaliation or further harm. This  
27 public policy of the state is one that benefits the public at large and guarantees the rights of an  
28 employee to perform their work free from age harassment/retaliation.

1           134. The motivating reason(s) for PLAINTIFF's termination was PLAINTIFF's  
2 reporting of DEFENDANT's unfair and unlawful conduct in order to gain a business advantage,  
3 and PLAINTIFF's protests and/or resistance thereof. PLAINTIFF's discharge from his position  
4 of employment was in violation of the public policies of the State of California.

5           135. As a result of DEFENDANT's actions, PLAINTIFF has suffered substantial  
6 losses in earnings and employment benefits and emotional distress in an amount to be determined  
7 according to proof at trial.

8           136. In doing the acts herein alleged, DEFENDANT acted with malice and oppression,  
9 and with a conscious disregard of PLAINTIFF's rights, and PLAINTIFF is entitled to exemplary  
10 and punitive damages from DEFENDANT in an amount to be determined to punish  
11 DEFENDANT and to deter such wrongful conduct in the future.

12           137. PLAINTIFF was harmed by DEFENDANT'S wrongful and illegal termination of  
13 her employment.

14           138. The wrongful termination of the employment of PLAINTIFF was and is a  
15 substantial factor causing harm to PLAINTIFF.

16 On [REDACTED], PLAINTIFF filed a complaint with the Department of Fair Employment &  
17 Housing ("DFEH"), and received an immediate Right to Sue that same day. (See Exhibit #1).

#### PRAYER FOR RELIEF

18           WHEREFORE, PLAINTIFF pray for a judgment against each DEFENDANT, jointly and  
19 severally, as follows:

20           1. On behalf of the CALIFORNIA CLASS:

- 21           a. That the Court certify the First Cause of Action asserted by the CALIFORNIA  
22 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
- 23           b. An order temporarily, preliminarily and permanently enjoining and restraining  
24 DEFENDANT from engaging in similar unlawful conduct as set forth herein;
- 25           c. An order requiring DEFENDANT to pay all wages and all sums unlawfully  
26 withheld from compensation due to PLAINTIFF and the other members of the  
27 CALIFORNIA CLASS; and  
28

1 d. Restitutionary disgorgement of DEFENDANT’S ill-gotten gains into a fluid fund  
2 for restitution of the sums incidental to DEFENDANT’S violations due to  
3 PLAINTIFF and to the other members of the CALIFORNIA CLASS.

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

5 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, and  
6 Ninth Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a  
7 class action pursuant to Cal. Code of Civ. Proc. § 382;

8 b. Compensatory damages, according to proof at trial, including compensatory  
9 damages for minimum wages, overtime wages, unreimbursed expenses, and other  
10 compensation due to PLAINTIFF and the other members of the CALIFORNIA  
11 LABOR SUB-CLASS, during the applicable CALIFORNIA LABOR SUB-  
12 CLASS PERIOD plus interest thereon at the statutory rate;

13 c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and  
14 the applicable IWC Wage Order;

15 d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in  
16 which a violation occurs and one hundred dollars (\$100) per member of the  
17 CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay  
18 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and  
19 an award of costs for violation of Cal. Lab. Code § 226;

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

23 f. The statutory damages and an award of costs for violation of Cal. Lab. Code § 246.

24 3. On PLAINTIFF’S Tenth and Eleventh Causes of Action:

25 a. For all special damages which were sustained as a result of DEFENDANT’S  
26 conduct, including but not limited to, back pay, front pay, lost compensation and  
27 job benefits that PLAINTIFF would have received but for the practices of  
28 DEFENDANT;



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- b. For all exemplary damages, according to proof, which were sustained as a result of DEFENDANT’s conduct.
  - c. An award of interest, including prejudgment interest at the legal rate;
  - d. Such other and further relief as the Court deems just and equitable; and
  - e. An award of penalties, attorneys’ fees and costs of suit, as allowable under the law.
4. On all claims:
- a. An award of interest, including prejudgment interest at the legal rate;
  - b. Such other and further relief as the Court deems just and equitable; and
  - c. An award of penalties, attorneys’ fees and costs of suit, as allowable under the law, including, but not limited to, pursuant to Labor Code § 218.5, § 226, §1194 and/or §1197.

DATED: \_\_\_\_\_, 2021

**ZAKAY LAW GROUP, APLC**

By: \_\_\_\_\_  
Shani O. Zakay  
Attorney for Plaintiffs

**DEMAND FOR A JURY TRIAL**

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

DATED: \_\_\_\_\_, 2021

**ZAKAY LAW GROUP, APLC**

By: \_\_\_\_\_  
Shani O. Zakay  
Attorney for Plaintiffs

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Image 2000  
 Joseph Blatchford  
 26037 Huntington Lane  
 Santa Clarita, CA 91355



9590 9402 5466 9249 9968 89

2. Article Number (Transfer from service label)

7020 2450 0001 4373 5812

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  X *W B* 5543  Agent  
 Addressee

B. Received by (Printed Name) *COVID-19* C. Date of Delivery *2-11-21*

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type
- |  |   |
|--|---|
| <input type="checkbox"/> Adult Signature                         | <input type="checkbox"/> Priority Mail Express®                     |
| <input type="checkbox"/> Adult Signature Restricted Delivery     | <input type="checkbox"/> Registered Mail™                           |
| <input type="checkbox"/> Certified Mail®                         | <input type="checkbox"/> Registered Mail Restricted Delivery        |
| <input type="checkbox"/> Certified Mail Restricted Delivery      | <input type="checkbox"/> Return Receipt for Merchandise             |
| <input type="checkbox"/> Collect on Delivery                     | <input type="checkbox"/> Signature Confirmation™                    |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail                            |   |
| <input type="checkbox"/> Insured Mail Restricted Delivery (0)    |   |