

**SUMMONS  
(CITACION JUDICIAL)**

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

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

THE LAGUNITAS BREWING COMPANY., a California Corporation; and DOES 1-50, Inclusive,

ELECTRONICALLY FILED  
Superior Court of California  
County of Sonoma  
8/9/2022 4:56 PM

By: Alex Fleckenstein, Deputy Clerk

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

TREVOR COFFEY, an individual, on behalf of himself and on behalf of all persons similarly situated,

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

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](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): Sonoma Superior Court  
Hall of Justice - 600 Administration Drive, Santa Rosa, CA 95403

CASE NUMBER:  
(Número del Caso): SCV-271412

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Jean-Claude Lapuyade, Esq.; JCL Law Firm, APC; 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121

DATE: 8/9/2022 4:56 PM  
(Fecha)

Robert Oliver Clerk, by Alex Fleckenstein, Deputy  
(Secretario) (Adjunto)

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



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

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- 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):
- by personal delivery on (date):

**JCL LAW FIRM, APC**

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**ELECTRONICALLY FILED**  
**Superior Court of California**  
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**By: Alex Fleckenstein, Deputy Clerk**

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Attorneys for Plaintiff TREVOR COFFEY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF SONOMA**

TREVOR COFFEY, an individual, on behalf of himself and on behalf of all persons similarly situated,

Plaintiff,

v.

THE LAGUNITAS BREWING COMPANY., a California Corporation; and DOES 1-50, Inclusive,

Defendants.

Case No: **SCV-271412**

**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 WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
  - 8) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
  - 9) FAILURE TO PROVIDE GRATUITIES IN VIOLATION OF CAL. LAB. CODE § 351;
  - 10) UNLAWFUL DEDUCTIONS IN VIOLATION OF CAL. LAB. CODE § 221.

**DEMAND FOR A JURY TRIAL**

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

**THE PARTIES**

1. Defendant THE LAGUNITAS BREWING COMPANY (“DEFENDANT” and/or “DEFENDANTS”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business in the state of California.

2. DEFENDANT operates, owns, and/or manages one of the most successful craft breweries in the state of California, including in Sonoma County, where PLAINTIFF worked.

3. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are ascertained. PLAINTIFF is informed and believes, and based upon that information and belief alleges, that the Defendants named in this Complaint, including DOES 1 through 50, inclusive, (hereinafter collectively “DEFENDANTS” and/or “DEFENDANT”) are responsible in some manner for one

1 or more of the events and happenings that proximately caused the injuries and damages  
2 hereinafter alleged.

3 4. The agents, servants, and/or employees of the Defendants and each of them acting  
4 on behalf of the DEFENDANTS acted within the course and scope of his, her or its authority as  
5 the agent, servant and/or employee of the Defendants, and personally participated in the conduct  
6 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.  
7 Consequently, the acts of each Defendant are legally attributable to the other Defendants and all  
8 Defendants are jointly and severally liable to PLAINTIFF and the other members of the  
9 CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the  
10 Defendants' agents, servants and/or employees.

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

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

22 7. PLAINTIFF was employed by DEFENDANTS in California from June of 2014 to  
23 June of 2021 and was at all times classified by DEFENDANT as a non-exempt employee, paid  
24 on an hourly basis, and entitled to the legally required meal and rest periods and payment of  
25 minimum and overtime wages due for all time worked.

26 8. PLAINTIFF brings this Class Action on behalf of himself and a California class,  
27 defined as all persons who are or previously were employed by DEFENDANT in California and  
28 classified as non-exempt employees (the "CALIFORNIA CLASS") at any time during the period

1 beginning four (4) years prior to the filing of this Complaint and ending on the date as determined  
2 by the Court (the “CLASS PERIOD”). The amount in controversy for the aggregate claim of the  
3 CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

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

15 10. DEFENDANTS’ uniform policies and practices alleged herein were unlawful,  
16 unfair and deceptive business practices whereby DEFENDANTS retained and continues to retain  
17 wages due PLAINTIFF and the other members of the CALIFORNIA CLASS.

18 11. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an  
19 injunction enjoining such conduct by DEFENDANTS in the future, relief for the named  
20 PLAINTIFF and the other members of the CALIFORNIA CLASS who have been economically  
21 injured by DEFENDANTS’ past and current unlawful conduct, and all other appropriate legal and  
22 equitable relief.

23 **JURISDICTION AND VENUE**

24 12. This has jurisdiction over this Action pursuant to California Code of Civil  
25 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This  
26 action is brought as a Class Action on behalf of PLAINTIFF and similarly situated employees of  
27 DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

28



1 be PLAINTIFF's off-duty meal break. PLAINTIFF was from time to time interrupted by work  
2 assignments while clocked out for what should have been PLAINTIFF's off-duty meal break.  
3 Indeed, there were many days where PLAINTIFF did not even receive a partial lunch. More  
4 specifically, from time to time, PLAINTIFF and other CALIFORNIA CLASS Members were  
5 required by DEFENDANTS to work through their meal breaks in order to meet DEFENDANTS'  
6 prescribed labor hours to perform all the tasks required of them by DEFENDANTS. PLAINTIFF  
7 and other CALIFORNIA CLASS Members were required to perform tasks such as, including but  
8 not limited to, helping DEFENDANTS' customers and responding to supervisors on work-related  
9 tasks. Additionally, PLAINTIFF and other CALIFORNIA CLASS Members were required to  
10 perform as much work as possible and as quickly as possible in order to meet DEFENDANTS'  
11 strict performance and production requirements. As a result, the PLAINTIFF and other  
12 CALIFORNIA CLASS Members forfeited minimum wage and overtime wages by regularly  
13 working without their time being accurately recorded and without compensation at the applicable  
14 minimum wage and overtime rates. DEFENDANTS' uniform policy and practice not to pay  
15 PLAINTIFF and other CALIFORNIA CLASS Members for all time worked is evidenced by  
16 DEFENDANTS' business records.

17         16. From time-to-time during the CLASS PERIOD, as a result of their rigorous work  
18 requirements and DEFENDANTS' inadequate staffing practices, PLAINTIFF and other  
19 CALIFORNIA CLASS Members were from time to time unable to take thirty (30) minute off-  
20 duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and  
21 other CALIFORNIA CLASS Members were required from time to time to perform work as  
22 ordered by DEFENDANTS for more than five (5) hours during some shifts without receiving a  
23 meal break. Further, DEFENDANTS from time to time failed to provide PLAINTIFF and  
24 CALIFORNIA CLASS Members with a second off-duty meal period for some workdays in which  
25 these employees were required by DEFENDANTS to work ten (10) hours of work from time to  
26 time. The nature of the work performed by PLAINTIFF and other CALIFORNIA CLASS  
27 Members does not qualify for limited and narrowly construed "on-duty" meal period exception.  
28 When they were provided with meal periods, PLAINTIFF and other CALIFORNIA CLASS

1 Members were, from time to time, required to remain on duty and on call. PLAINTIFF and other  
2 CALIFORNIA CLASS Members therefore forfeited meal breaks without additional  
3 compensation and in accordance with DEFENDANTS' strict corporate policy and practice.

4 **B. Rest Period Violations**

5 17. From time-to-time during the CLASS PERIOD, PLAINTIFF and other  
6 CALIFORNIA CLASS members were also required from time to time to work in excess of four  
7 (4) hours without being provided ten (10) minute rest periods as a result of their rigorous work  
8 requirements and DEFENDANTS' inadequate staffing. More specifically, from time to time,  
9 PLAINTIFF and other CALIFORNIA CLASS Members were required by DEFENDANTS to  
10 work through their rest breaks in order to meet DEFENDANTS' prescribed labor hours to perform  
11 all the tasks required of them by DEFENDANTS. PLAINTIFF and other CALIFORNIA CLASS  
12 Members were required to perform tasks such as, helping DEFENDANTS' customers and  
13 responding to supervisors on work-related tasks. Additionally, PLAINTIFF and other  
14 CALIFORNIA CLASS Members were required to perform as much work as possible and as  
15 quickly as possible in order to meet DEFENDANTS' strict performance and production  
16 requirements.

17 18. Further, for the same reasons these employees were denied their first rest periods  
18 of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time  
19 to time, a first and second rest period of at least ten (10) minutes for some shifts worked of between  
20 six (6) and eight (8) hours from time to time, and a first, second and third rest period of at least  
21 ten (10) minutes for some shifts worked of ten (10) hours or more from time to time. When they  
22 were provided with rest breaks, PLAINTIFF and other CALIFORNIA CLASS Members were,  
23 from time to time, required to remain on duty and/or on call. PLAINTIFF and other  
24 CALIFORNIA CLASS Members were also not provided with one-hour wages *in lieu* thereof. As  
25 a result of their rigorous work schedules and DEFENDANTS' inadequate staffing, PLAINTIFF  
26 and other CALIFORNIA CLASS Members were from time to time denied their proper rest  
27 periods by DEFENDANTS and DEFENDANTS' managers.

28 ///



1 **C. Unlawful Rounding Violations**

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

14 20. Further, the mutability of DEFENDANTS' timekeeping system and unlawful  
15 rounding policy and practice resulted in PLAINTIFF and CALIFORNIA CLASS Members' time  
16 being inaccurately recorded. As a result, from time to time, DEFENDANTS' unlawful rounding  
17 policy and practice caused PLAINTIFF and CALIFORNIA CLASS Members to perform work  
18 as ordered by DEFENDANTS for more than five (5) hours during a shift without receiving an  
19 off-duty meal break. Additionally, DEFENDANTS' unlawful rounding policy and practice  
20 caused PLAINTIFF and CALIFORNIA CLASS Members to perform work as ordered by  
21 DEFENDANTS for more than ten (10) hours during a shift without receiving a second off-duty  
22 meal break.

23 **D. Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums, and**  
24 **Sick Pay**

25 21. From time-to-time during the CLASS PERIOD, DEFENDANTS failed and  
26 continue to fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS  
27 members for their overtime and double time hours worked, meal and rest period premiums, and  
28 sick pay. As a result, PLAINTIFF and the other CALIFORNIA CLASS members forfeited wages

1 due them for working overtime without compensation at the correct overtime and double time  
2 rates, meal and rest period premiums, and sick pay rates. DEFENDANTS' uniform policy and  
3 practice to not pay the CALIFORNIA CLASS members the correct rate for all overtime and  
4 double time worked, meal and rest period premiums, and sick pay in accordance with applicable  
5 law is evidenced by DEFENDANTS' business records.

6 22. State law provides that employees must be paid overtime at one-and-one-half times  
7 their "regular rate of pay." PLAINTIFF and other CALIFORNIA CLASS members were  
8 compensated at an hourly rate plus incentive pay that was tied to specific elements of an  
9 employee's performance.

10 23. The second component of PLAINTIFF'S and other CALIFORNIA CLASS  
11 members' compensation was DEFENDANTS' non-discretionary incentive program that paid  
12 PLAINTIFF and other CLASS MEMBERS incentive wages based on their performance for  
13 DEFENDANTS. The non-discretionary bonus program provided all employees paid on an hourly  
14 basis with bonus compensation when the employees met the various performance goals set by  
15 DEFENDANTS.

16 24. However, from-time-to-time, when calculating the regular rate of pay, in those pay  
17 periods where PLAINTIFF and other CALIFORNIA CLASS members worked overtime, double  
18 time, paid meal and rest period premium payments, and/or paid sick pay, and earned non-  
19 discretionary bonus, DEFENDANTS failed to accurately include the non-discretionary bonus  
20 compensation as part of the employees' "regular rate of pay" and/or calculated all hours worked  
21 rather than just all non-overtime hours worked. Management and supervisors described the  
22 incentive/bonus program to potential and new employees as part of the compensation package.  
23 As a matter of law, the incentive compensation received by PLAINTIFF and other CALIFORNIA  
24 CLASS members must be included in the "regular rate of pay." The failure to do so has resulted  
25 in a systematic underpayment of overtime and double time compensation, meal and rest period  
26 premiums, and sick pay to PLAINTIFF and other CALIFORNIA CLASS members by  
27 DEFENDANTS. Specifically, California Labor Code Section 246 mandates that paid sick time  
28 for non-employees shall be calculated in the same manner as the regular rate of pay for the

1 workweek in which the non-exempt employee uses paid sick time, whether or not the employee  
2 actually works overtime in that workweek. DEFENDANTS' conduct, as articulated herein, by  
3 failing to include the incentive compensation as part of the "regular rate of pay" for purposes of  
4 sick pay compensation was in violation of Cal. Lab. Code § 246 the underpayment of which is  
5 recoverable under Cal. Labor Code Sections 201, 202, 203 and/or 204.

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

17 **E. Minimum Wage and Overtime Violations**

18 26. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were  
19 required to pay PLAINTIFF and the CALIFORNIA CLASS Members for all their time worked,  
20 meaning the time during which an employee is subject to the control of an employer, including all  
21 the time the employee is suffered or permitted to work. From time to time, DEFENDANTS required  
22 PLAINTIFF and CALIFORNIA CLASS Members to work without paying them for all the time  
23 they were under DEFENDANTS' control. More specifically, from time to time, PLAINTIFF and  
24 other CALIFORNIA CLASS Members were required by DEFENDANTS to perform work before  
25 and after the beginning of their shifts in order to meet DEFENDANTS' prescribed labor hours to  
26 perform all the tasks required of them by DEFENDANTS. Additionally, since DEFENDANTS  
27 required PLAINTIFF and other CALIFORNIA CLASS Members to perform as much work as  
28 possible and as quickly as possible in order to meet DEFENDANTS' strict performance and

1 production requirements, PLAINTIFF and other CALIFORNIA CLASS Members were, from time  
2 to time, required to work off-the-clock before and after their shifts in order to meet DEFENDANTS'  
3 strict requirements.

4 27. As a result, the PLAINTIFF and other CALIFORNIA CLASS Members forfeited  
5 minimum wage and overtime compensation by regularly working without their time being  
6 accurately recorded and without compensation at the applicable minimum wage and overtime rates.  
7 DEFENDANTS failed to pay PLAINTIFF and other members of the CALIFORNIA CLASS  
8 necessary wages for attending for performing work at DEFENDANTS' direction, request and  
9 benefit, while off-the clock. DEFENDANTS' uniform policy and practice not to pay PLAINTIFF  
10 and other CALIFORNIA CLASS Members for all time worked is evidenced by DEFENDANTS'  
11 business records.

12 28. DEFENDANTS directed and directly benefited from the uncompensated off-the-  
13 clock work performed by PLAINTIFF and the other members of the CALIFORNIA CLASS,  
14 including but not limited to, requiring PLAINTIFF and the other members of the CALIFORNIA  
15 CLASS to undergo pre-shift Covid-19 health screenings while off-the-clock.

16 29. DEFENDANTS controlled the work schedules, duties, protocols, applications,  
17 assignments, and employment conditions of PLAINTIFF and the other members of the  
18 CALIFORNIA CLASS.

19 30. DEFENDANTS were able to track the amount of time PLAINTIFF and the other  
20 members of the CALIFORNIA CLASS spent working; however, DEFENDANTS failed to  
21 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all  
22 wages earned and owed for all the work they performed, including pre-shift, post shift and during  
23 meal period off-the-clock work.

24 31. PLAINTIFF and the other members of the CALIFORNIA CLASS were non-  
25 exempt employees, subject to the requirements of the California Labor Code.

26 32. DEFENDANTS' policies and practices deprived PLAINTIFF and the other  
27 members of the CALIFORNIA CLASS of all minimum, regular, overtime, and double time wages  
28 owed for the off-the-clock work activities. Because PLAINTIFF and the other members of the

1 CALIFORNIA CLASS typically worked over 40 hours in a workweek, and more than eight (8)  
2 hours per day, DEFENDANTS' policies and practices also deprived them of overtime pay.

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

5 34. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS  
6 forfeited wages due them for all hours worked at DEFENDANTS' direction, control and benefit  
7 for the time spent working while off-the-clock. DEFENDANTS' uniform policy and practice to  
8 not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all hours worked  
9 in accordance with applicable law is evidenced by DEFENDANTS' business records.

10 **F. Wage Statement Violations**

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

19 36. From time to time during the CLASS PERIOD, when PLAINTIFF and other  
20 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurately for  
21 missed meal and rest period premiums, or were not paid for all hours worked, DEFENDANT also  
22 failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and  
23 accurate wage statements which failed to show, among other things, all deductions, the total hours  
24 worked and all applicable hourly rates in effect during the pay period, and the corresponding  
25 amount of time worked at each hourly rate, correct rates of pay for penalty payments or missed  
26 meal and rest periods.

27  
28

1           37. In addition to the foregoing, DEFENDANT, from time to time, failed to provide  
2 PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply with  
3 Cal. Lab. Code § 226.

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

8 **G. Violations Resulting from Unlawful Tipping Practices**

9           39. During the CALIFORNIA CLASS period, pursuant to DEFENDANTS' company  
10 policies and practices, DEFENDANTS from time to time used all or part of PLAINTIFF'S and  
11 other CALIFORNIA CLASS Members' tips to offset their minimum wage and applicable overtime  
12 compensation. Specifically, from time to time, if PLAINTIFF and other CALIFORNIA CLASS  
13 Members earned more in tips in any given day than their total hourly compensation, DEFENDANT  
14 would only pay PLAINTIFF and other CALIFORNIA CLASS Members their tips as compensation.  
15 As a result, PLAINTIFF and other CALIFORNIA CLASS Members forfeited minimum and  
16 overtime wages due them for all hours worked due to DEFENDANTS' uniform policy and practice  
17 of only paying PLAINTIFF and other CALIFORNIA CLASS Members in tips if said tips were  
18 more than the employees' daily total hourly compensation.

19           40. Further, from time to time during the CALIFORNIA CLASS period, if PLAINTIFF  
20 and other CALIFORNIA CLASS Members earned less tips than their daily hourly compensation,  
21 DEFENDANT would deduct the amount of tips from employees' hourly compensation and only  
22 pay PLAINTIFF and other CALIFORNIA CLASS Members the difference. DEFENDANTS  
23 routinely received gratuity tips from its food and beverage bills. These gratuities and/or tips  
24 reasonably appear to be gratuities/tips for the service staff. It is typical and customary in the  
25 hospitality industry that establishments receive gratuities/tips on the food and beverage bill. Thus,  
26 when customers paid these gratuities/tips, it is reasonable for them to have believed they were  
27 gratuities/tips to be paid to the service staff. Indeed, because many of these gratuities/tips are  
28 depicted to customers, and the custom in the food and beverage industry that gratuities/tips are paid  
for food and beverage service, customers paid these gratuities/tips reasonably believing they were

1 remitted to the service staff. However, DEFENDANTS have not remitted the total proceeds of these  
2 gratuities/tips to the non-managerial employees who serve the food and beverages. Instead,  
3 DEFENDANTS have a policy and practice of using a portion of these gratuities to offset the  
4 minimum wage and overtime compensation owed to PLAINTIFF and other CALIFORNIA CLASS  
5 Members. As a result, PLAINTIFF and CALIFORNIA CLASS Members have not received the  
6 total proceeds of the gratuities/tips and minimum wage and overtime compensation, to which they  
7 are entitled to under California law

8 41. DEFENDANTS are generally in the business of owning and operating a restaurant  
9 and brewery business. During the CALIFORNIA CLASS PERIOD, PLAINTIFF and other  
10 CALIFORNIA CLASS Members were in the “chain of service” and earned gratuities based on  
11 their service for their customers. However, PLAINTIFF and CALIFORNIA CLASS Members  
12 were forced to forfeit portions of their gratuities, which said gratuities were kept by  
13 DEFENDANTS’ employees who were not in the chain of service from which the gratuity/tip  
14 resulted, or were used to offset their minimum and overtime compensation. PLAINTIFF and other  
15 CALIFORNIA CLASS Members contend that any gratuities/tips kept by DEFENDANTS were  
16 illegal and in violation of California law because PLAINTIFF and other CALIFORNIA CLASS  
17 Members provided the service for to whom the gratuity should have been paid.

18 42. California Labor Code § 351 establishes the requirements for an employer  
19 regarding the payment of gratuities. Specifically, gratuities are the sole property of the employees.  
20 California Labor Code § 351 expressly prohibits employers and their agents from collecting,  
21 taking, or receiving any portion of a gratuity. California Labor Code § 350(e) defines the term  
22 “gratuity” as including any money that has been paid or given or left for an employee by a patron  
23 of a business over and above the actual amount due the business for services rendered or for  
24 goods, food, drink or articles sold or served to such patron. Labor Code § 353 requires employers  
25 to keep accurate records of all gratuities they receive, directly or indirectly.

26 43. Although tip pooling is not expressly prohibited by the Labor Code, employees  
27 who mandate tip pooling must only distribute pooled tips to employees in the “chain of service.”  
28 By distributing tips to employees who were not in the “chain of service,” or using tips to offset

1 minimum wage and overtime compensation, DEFENDANTS have violated and continue to  
2 violate the legal requirements for handling pooled tips and the legal requirements for paying  
3 minimum wage and overtime compensation.

4 **H. Unreimbursed Business Expenses**

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

16 45. In the course of their employment, DEFENDANT required PLAINTIFF and other  
17 CALIFORNIA CLASS Members to use their personal cell phones as a result of and in furtherance  
18 of their job duties. Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were  
19 required to use their personal cell phones in order to perform work related tasks. However,  
20 DEFENDANT unlawfully failed to reimburse PLAINTIFF and other CALIFORNIA CLASS  
21 Members for the use of their personal cell phones. As a result, in the course of their employment  
22 with DEFENDANT, the PLAINTIFF and other CALIFORNIA CLASS Members incurred  
23 unreimbursed business expenses that included, but were not limited to, costs related to the use of  
24 their personal cell phones, all on behalf of and for the benefit of DEFENDANT.

25 **I. Unlawful Deductions**

26 46. DEFENDANT, from time-to-time unlawfully deducted wages from PLAINTIFF  
27 and CALIFORNIA LABOR CLASS Members' pay without explanations and without  
28 authorization to do so or notice to PLAINTIFF and the CALIFORNIA LABOR CLASS Members.



1 Such unlawful deductions include, but are not limited to, 401(k) contributions, despite failing to  
2 ensure those deductions were properly allocated to said 401(k) policies. As a result,  
3 DEFENDANT violated Labor Code § 221.

4 47. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take  
5 off duty meal and rest breaks and was not fully relieved of duty for his rest and meal periods.  
6 PLAINTIFF was required to perform work as ordered by DEFENDANT for more than five (5)  
7 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to  
8 provide PLAINTIFF with a second off-duty meal period each workday in which he was required  
9 by DEFENDANT to work ten (10) hours of work. When DEFENDANT provided PLAINTIFF  
10 with a rest break, they required PLAINTIFF to remain on-duty and on-call for the rest break.  
11 DEFENDANT policy caused PLAINTIFF to remain on-call and on-duty during what was  
12 supposed to be his off-duty meal periods. PLAINTIFF therefore forfeited meal and rest breaks  
13 without additional compensation and in accordance with DEFENDANT’S strict corporate policy  
14 and practice. Moreover, DEFENDANT also provided PLAINTIFF with paystubs that failed to  
15 comply with Cal. Lab. Code § 226. Further, DEFENDANT also failed to reimburse PLAINTIFF  
16 for required business expenses related to the use of his personal cell phone, on behalf of and in  
17 furtherance of his employment with DEFENDANT. Moreover, DEFENDANT also subjected  
18 PLAINTIFF to its unlawful tipping practices pursuant to Cal. Lab. Code § 351. Additionally,  
19 DEFENDANT unlawfully deduced wages from PLAINTIFF’S pay pursuant to Cal. Lab. Code §  
20 221. To date, DEFENDANT has not fully paid PLAINTIFF the minimum, overtime and double  
21 time compensation still owed to him or any penalty wages owed to him under Cal. Lab. Code §  
22 203. The amount in controversy for PLAINTIFF individually does not exceed the sum or value  
23 of \$75,000.

24 **J. CLASS ACTION ALLEGATIONS**

25 48. PLAINTIFF brings the First through Tenth Causes of Action as a class action  
26 pursuant to California Code of Civil Procedure § 382 on behalf of all persons who are or  
27 previously were employed by DEFENDANTS in California and classified as non-exempt  
28 employees (“CALIFORNIA CLASS”) during the period beginning four years prior to the filing

1 of the Complaint and ending on a date determined by the Court (“CLASS PERIOD”). The amount  
2 in controversy for the aggregate claim of the CALIFORNIA CLASS Members is under five  
3 million dollars (\$5,000,000.00).

4 49. PLAINTIFF and the other CALIFORNIA CLASS Members have uniformly been  
5 deprived of wages and penalties from unpaid wages earned and due, including but not limited to  
6 unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums,  
7 and illegal meal and rest period policies. Defendant further failed to compensate for off-the-clock  
8 work and failed to maintain required records, and interest, statutory and civil penalties, attorney’s  
9 fees, costs, and expenses.

10 50. The members of the class are so numerous that joinder of all class members is  
11 impractical.

12 51. Common questions of law and fact regarding DEFENDANTS’ conduct, including  
13 but not limited to, the off-the-clock work, unpaid meal and rest period premiums, failing to  
14 provide legally compliant meal and rest periods, failure to provide accurate itemized wage  
15 statements, and failure to ensure they are paid at least minimum wage and overtime, exist as to all  
16 members of the class and predominate over any questions affecting solely any individual members  
17 of the class. Among the questions of law and fact common to the class are:

- 18 a. Whether DEFENDANTS maintained legally compliant meal period policies and  
19 practices;
- 20 b. Whether DEFENDANTS maintained legally compliant rest period policies and  
21 practices;
- 22 c. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA  
23 CLASS Members accurate premium payments for missed meal and rest periods;
- 24 d. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA  
25 CLASS Members accurate overtime wages;
- 26 e. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA  
27 CLASS Members at least minimum wage for all hours worked;

- 1 f. Whether DEFENDANTS failed to reimburse PLAINTIFF and the CALIFORNIA
- 2 CLASS Members for all required business expenses;
- 3 g. Whether DEFENDANT issued legally compliant wage statements;
- 4 h. Whether DEFENDANTS committed an act of unfair competition by
- 5 systematically failing to record and pay PLAINTIFF and the other members of the
- 6 CALIFORNIA CLASS for all time worked;
- 7 i. Whether DEFENDANTS committed an act of unfair competition by
- 8 systematically failing to record all meal and rest breaks missed by PLAINTIFF
- 9 and other CALIFORNIA CLASS Members, even though DEFENDANTS enjoyed
- 10 the benefit of this work, required employees to perform this work and permits or
- 11 suffers to permit this work;
- 12 j. Whether DEFENDANTS committed an act of unfair competition in violation of
- 13 the UCL, by failing to provide the PLAINTIFF and the other members of the
- 14 CALIFORNIA CLASS with the legally required meal and rest periods.

15 52. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as  
16 a result of DEFENDANTS' conduct and actions alleged herein.

17 53. PLAINTIFF's claims are typical of the claims of the class, and PLAINTIFF has  
18 the same interests as the other members of the class.

19 54. PLAINTIFF will fairly and adequately represent and protect the interests of the  
20 CALIFORNIA CLASS Members.

21 55. PLAINTIFF retained able class counsel with extensive experience in class action  
22 litigation.

23 56. Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the  
24 interests of the other CALIFORNIA CLASS Members.

25 57. There is a strong community of interest among PLAINTIFF and the members of  
26 the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANTS are  
27 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries  
28 sustained.



1           62.     DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.  
2 Code § 17021.

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

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

14           64.     By the conduct alleged herein, DEFENDANT has engaged and continues to  
15 engage in a business practice which violates California law, including but not limited to, the  
16 applicable Wage Order(s), the California Code of Regulations and the California Labor Code  
17 including Sections 201, 202, 203, 204, 221, 226, 226.7, 246, 351, 510, 512, 558, 1194, 1197,  
18 1197.1, 1198, 2802 for which this Court should issue declaratory and other equitable relief  
19 pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the  
20 conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

21           65.     By the conduct alleged herein, DEFENDANT’s practices were unlawful and unfair  
22 in that these practices violated public policy, were immoral, unethical, oppressive unscrupulous  
23 or substantially injurious to employees, and were without valid justification or utility for which  
24 this Court should issue equitable and injunctive relief pursuant to Section 17203 of the California  
25 Business & Professions Code, including restitution of wages wrongfully withheld.

26           66.     By the conduct alleged herein, DEFENDANT’s practices were deceptive and  
27 fraudulent in that DEFENDANT’s uniform policy and practice failed to provide the legally  
28 mandated meal and rest periods and the required amount of compensation for missed meal and  
rest periods and, due to a systematic business practice that cannot be justified, pursuant to the  
applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in violation of Cal.

1 Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive and equitable relief,  
2 pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

3 67. By the conduct alleged herein, DEFENDANT's practices were also unlawful,  
4 unfair and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the  
5 other members of the CALIFORNIA CLASS to be underpaid during their employment with  
6 DEFENDANT.

7 68. By the conduct alleged herein, DEFENDANT's practices were also unfair and  
8 deceptive in that DEFENDANT's uniform policies, practices and procedures failed to provide  
9 legally required meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members  
10 as required by Cal. Lab. Code §§ 226.7 and 512.

11 69. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each  
12 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off-duty meal  
13 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for  
14 each workday in which a second off-duty meal period was not timely provided for each ten (10)  
15 hours of work.

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

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

25 72. All the acts described herein as violations of, among other things, the Industrial  
26 Welfare Commission Wage Orders, the California Code of Regulations, and the California Labor  
27 Code, were unlawful and in violation of public policy, were immoral, unethical, oppressive, and  
28

1 unscrupulous, were deceptive, and thereby constitute unlawful, unfair and deceptive business  
2 practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

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

8 74. PLAINTIFF and the other members of the CALIFORNIA CLASS are further  
9 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair,  
10 and deceptive, and that injunctive relief should be issued restraining DEFENDANT from  
11 engaging in any unlawful and unfair business practices in the future.

12 75. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,  
13 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of  
14 DEFENDANT. Further, the practices herein alleged presently continue to occur unabated. As a  
15 result of the unlawful and unfair business practices described herein, PLAINTIFF and the other  
16 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal  
17 and economic harm unless DEFENDANT is restrained from continuing to engage in these  
18 unlawful and unfair business practices.

19 **SECOND CAUSE OF ACTION**

20 **Failure To Pay Minimum Wages**

21 **(Cal. Lab. Code §§ 1194, 1197 and 1197.1.)**

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

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

26 77. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim  
27 for DEFENDANT’S willful and intentional violations of the California Labor Code and the  
28

1 Industrial Welfare Commission requirements for DEFENDANT’S failure to accurately calculate  
2 and pay minimum wages to PLAINTIFF and the CALIFORNIA CLASS Members.

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

5 79. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the  
6 commission is the minimum wage to be paid to employees, and the payment of a lesser wage than  
7 the minimum so fixed is unlawful.

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

10 81. DEFENDANT maintained a uniform wage practice of paying PLAINTIFF and the  
11 other members of the CALIFORNIA CLASS without regard to the correct amount of time they  
12 worked. As set forth herein, DEFENDANT’S uniform policy and practice was to unlawfully and  
13 intentionally deny timely payment of wages due to PLAINTIFF and the other members of the  
14 CALIFORNIA CLASS.

15 82. DEFENDANT’S uniform pattern of unlawful wage and hour practices manifested,  
16 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of  
17 implementing a uniform policy and practice that denied accurate compensation to PLAINTIFF  
18 and the other members of the CALIFORNIA CLASS in regards to minimum wage pay.

19 83. In committing these violations of the California Labor Code, DEFENDANT  
20 inaccurately calculated the amount of time worked and consequently underpaid the actual time  
21 worked by PLAINTIFF and other members of the CALIFORNIA CLASS. DEFENDANT acted  
22 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of  
23 the California Labor Code, the Industrial Welfare Commission requirements and other applicable  
24 laws and regulations.

25 84. As a direct result of DEFENDANT’S unlawful wage practices as alleged herein,  
26 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct  
27 minimum wage compensation for their time worked for DEFENDANT.  
28



1           85. During the CLASS PERIOD, PLAINTIFF and the other members of the  
2 CALIFORNIA CLASS were paid less for time worked than they were entitled to, constituting a  
3 failure to pay all earned wages.

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

9           87. DEFENDANT knew or should have known that PLAINTIFF and the other  
10 members of the CALIFORNIA CLASS are under-compensated for their time worked.  
11 DEFENDANT systematically elected, either through intentional malfeasance or gross  
12 nonfeasance, to not pay employees for their labor as a matter of uniform corporate policy, practice  
13 and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay  
14 PLAINTIFF and the other members of the CALIFORNIA CLASS the correct minimum wages  
15 for their time worked.

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

24           89. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore  
25 request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the  
26 assessment of any statutory penalties against DEFENDANT, in a sum as provided by the  
27 California Labor Code and/or other applicable statutes. To the extent minimum wage  
28 compensation is determined to be owed to the CALIFORNIA CLASS Members who have

1 terminated their employment, DEFENDANT’S conduct also violates Labor Code §§ 201 and/or  
2 202, and therefore these individuals are also be entitled to waiting time penalties under Cal. Lab.  
3 Code § 203, which penalties are sought herein on behalf of these CALIFORNIA CLASS  
4 Members. DEFENDANT’S conduct as alleged herein was willful, intentional and not in good  
5 faith. Further, PLAINTIFF and other CALIFORNIA CLASS Members are entitled to seek and  
6 recover statutory costs.

7 **THIRD CAUSE OF ACTION**

8 **Failure To Pay Overtime Compensation**

9 **(Cal. Lab. Code §§ 510, 1194 and 1198)**

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

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

14 91. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim  
15 for DEFENDANT’S willful and intentional violations of the California Labor Code and the  
16 Industrial Welfare Commission requirements for DEFENDANT’S failure to pay these employees  
17 for all overtime worked, including, work performed in excess of eight (8) hours in a workday,  
18 and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

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

21 93. Cal. Lab. Code § 510 further provides that employees in California shall not be  
22 employed more than eight (8) hours per workday and more than forty (40) hours per workweek  
23 unless they receive additional compensation beyond their regular wages in amounts specified by  
24 law.

25 94. Cal. Lab. Code § 1194 establishes an employee’s right to recover unpaid wages,  
26 including minimum wage and overtime compensation and interest thereon, together with the costs  
27 of suit. Cal. Lab. Code § 1198 further states that the employment of an employee for longer hours  
28 than those fixed by the Industrial Welfare Commission is unlawful.

1           95.     During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members  
2 were required by DEFENDANT to work for DEFENDANT and were not paid for all the time  
3 they worked, including overtime work.

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

11           97.     In committing these violations of the California Labor Code, DEFENDANT  
12 inaccurately recorded overtime worked and consequently underpaid the overtime worked by  
13 PLAINTIFF and other CALIFORNIA CLASS Members. DEFENDANT acted in an illegal  
14 attempt to avoid the payment of all earned wages, and other benefits in violation of the California  
15 Labor Code, the Industrial Welfare Commission requirements and other applicable laws and  
16 regulations.

17           98.     As a direct result of DEFENDANT's unlawful wage practices as alleged herein,  
18 the PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full  
19 compensation for overtime worked.

20           99.     Cal. Lab. Code § 515 sets out various categories of employees who are exempt  
21 from the overtime requirements of the law. None of these exemptions are applicable to the  
22 PLAINTIFF and the other members of the CALIFORNIA CLASS. Further, PLAINTIFF and the  
23 other members of the CALIFORNIA CLASS were not subject to a valid collective bargaining  
24 agreement that would preclude the causes of action contained herein this Complaint. Rather,  
25 PLAINTIFF brings this Action on behalf of himself and the CALIFORNIA CLASS based on  
26 DEFENDANT's violations of non- negotiable, non-waivable rights provided by the State of  
27 California.

28

1           100. During the CLASS PERIOD, PLAINTIFF and the other members of the  
2 CALIFORNIA CLASS have been paid less for overtime worked that they are entitled to,  
3 constituting a failure to pay all earned wages.

4           101. DEFENDANT failed to accurately pay the PLAINTIFF and the other members of  
5 the CALIFORNIA CLASS overtime wages for the time they worked which was in excess of the  
6 maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 & 1198, even  
7 though PLAINTIFF and the other members of the CALIFORNIA CLASS were required to work,  
8 and did in fact work, overtime as to which DEFENDANT failed to accurately record and pay as  
9 evidenced by DEFENDANT's business records and witnessed by employees.

10           102. By virtue of DEFENDANT'S unlawful failure to accurately pay all earned  
11 compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS for all  
12 overtime worked by these employees, PLAINTIFF and the other members of the CALIFORNIA  
13 CLASS have suffered and will continue to suffer an economic injury in amounts which are  
14 presently unknown to them, and which will be ascertained according to proof at trial.

15           103. DEFENDANTS knew or should have known that PLAINTIFF and the other  
16 members of the CALIFORNIA CLASS were under compensated for all overtime worked.  
17 DEFENDANT systematically elected, either through intentional malfeasance or gross  
18 nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice  
19 and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay  
20 PLAINTIFF and the other members of the CALIFORNIA CLASS for overtime worked.

21           104. In performing the acts and practices herein alleged in violation of California labor  
22 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all overtime  
23 worked and provide them with the requisite overtime compensation, DEFENDANT acted and  
24 continues to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other  
25 members of the CALIFORNIA CLASS with a conscious and utter disregard for their legal rights,  
26 or the consequences to them, and with the despicable intent of depriving them of their property  
27 and legal rights, and otherwise causing them injury in order to increase company profits at the  
28 expense of these employees.



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

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

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

### 13 **FIFTH CAUSE OF ACTION**

#### 14 **Failure To Provide Required Rest Periods**

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

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

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

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

1 DEFENDANT and DEFENDANT's managers. As a result, DEFENDANT's failure to provide  
2 PLAINTIFF and the CALIFORNIA CLASS Members with all the legally required paid rest  
3 periods is evidenced by DEFENDANT's business records.

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

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

## 12 **SIXTH CAUSE OF ACTION**

### 13 **Failure To Reimburse Employees for Required Expenses**

14 **(Cal. Lab. Code §§ 2802)**

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

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

18 115. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

24 116. From time to time during the CLASS PERIOD, DEFENDANT violated Cal. Lab.  
25 Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS  
26 members for required expenses incurred in the discharge of their job duties for DEFENDANT's  
27 benefit. DEFENDANT failed to reimburse PLAINTIFF and the CALIFORNIA CLASS members  
28 for expenses which included, but were not limited to, personal expenses incurred for the use of  
personal cell phones all on behalf of and for the benefit of DEFENDANT. Specifically, PLAINTIFF  
and other CALIFORNIA CLASS Members were required by DEFENDANT to use their own cell

1 phones to execute their essential job duties on behalf of DEFENDANT. DEFENDANT's uniform  
2 policy, practice and procedure was to not reimburse PLAINTIFF and the CALIFORNIA CLASS  
3 members for expenses resulting from the use of personal cell phones for DEFENDANT within the  
4 course and scope of their employment for DEFENDANT. These expenses were necessary to  
5 complete their principal job duties. DEFENDANT is estopped by DEFENDANT's conduct to assert  
6 any waiver of this expectation. Although these expenses were necessary expenses incurred by  
7 PLAINTIFF and the CALIFORNIA CLASS members, DEFENDANT failed to indemnify and  
8 reimburse PLAINTIFF and the CALIFORNIA CLASS members for these expenses as an employer  
9 is required to do under the laws and regulations of California.

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

#### 14 **SEVENTH CAUSE OF ACTION**

#### 15 **Failure To Pay Wages When Due**

16 **(Cal. Lab. Code §§ 203)**

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

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

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

22 As used in this article:

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

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





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

- 3           a. Gross wages earned,
- 4           b. (2) total hours worked by the employee, except for any employee whose  
5           compensation is solely based on a salary and who is exempt from payment of  
6           overtime under subdivision (a) of Section 515 or any applicable order of the  
7           Industrial Welfare Commission,
- 8           c. the number of piece-rate units earned and any applicable piece rate if the  
9           employee is paid on a piece-rate basis,
- 10          d. all deductions, provided that all deductions made on written orders of the  
11          employee may be aggregated and shown as one item,
- 12          e. net wages earned,
- 13          f. the inclusive dates of the period for which the employee is paid,
- 14          g. the name of the employee and his or her social security number, except that by  
15          January 1, 2008, only the last four digits of his or her social security number  
16          of an employee identification number other than social security number may  
17          be shown on the itemized statement,
- 18          h. the name and address of the legal entity that is the employer, and
- 19          i. all applicable hourly rates in effect during the pay period and the corresponding  
20          number of hours worked at each hourly rate by the employee.

21           128. When DEFENDANT did not accurately record PLAINTIFF’S and other  
22 CALIFORNIA CLASS Members’ missed meal and rest breaks, or were paid inaccurate missed  
23 meal and rest break premiums, or were not paid for all hours worked, DEFENDANT violated Cal.  
24 Lab. Code § 226 in that DEFENDANT failed to provide PLAINTIFF and other CALIFORNIA  
25 CLASS Members with complete and accurate wage statements which failed to show, among other  
26 things, all deductions, the accurate gross wages earned, net wages earned, the total hours worked  
27 and all applicable hourly rates in effect during the pay period and the corresponding amount of  
28

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

3 129. In addition to the foregoing, DEFENDANT failed to provide itemized wage  
4 statements to PLAINTIFF and members of the CALIFORNIA CLASS that complied with the  
5 requirements of California Labor Code Section 226.

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

17 **NINTH CAUSE OF ACTION**

18 **FAILURE TO PAY STATUTORY GRATUITIES**

19 **(Cal. Lab. Code § 351 et seq.)**

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

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

25 132. DEFENDANT's conduct, as set forth above, in failing to remit to non-  
26 managerial employees the total proceeds of gratuities/tips paid by customers on customers'  
27 bills constitutes a violation of California Labor Code Section 351. This violation is enforceable  
28 pursuant to the California Unfair Competition Law, Cal. Bus. And Prof. Code 17200 et seq.

1 DEFENDANT's conduct constitutes unlawful, unfair, and/or fraudulent business acts or  
2 practices, in that DEFENDANT has violated California Labor Code Section 351 in not remitting  
3 to the non-managerial service employees the total gratuities/tips that were paid by customers.

4 133. As a proximate result of the aforementioned violations, PLAINTIFFS and  
5 CALIFORNIA CLASS Members have been damaged in an amount according to proof at trial,  
6 including the loss of gratuities to which they were entitled. and seek all wages earned and due,  
7 interest, penalties, expenses and costs of suit.

### 8 **TENTH CAUSE OF ACTION**

#### 9 **Unlawful Deductions from PLAINTIFF and CLASS MEMBERS Paychecks**

10 **[Cal. Labor Code §§ 221 and 223]**

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

12 134. PLAINTIFF incorporate herein by specific reference, as though fully set forth, the  
13 allegations in the preceding paragraphs.

14 135. During the CLASS PERIOD, DEFENDANT regularly and consistently  
15 maintained corporate policies and procedures designed to reduce labor costs by reducing or  
16 minimizing the amount of compensation paid to its employees, especially overtime compensation.

17 136. DEFENDANT made deductions from PLAINTIFF and the other CALIFORNIA  
18 CLASS Members' paychecks including but limited to amounts for 401(k) contributions earned  
19 by PLAINTIFF and the other CALIFORNIA CLASS Members during various pay periods.  
20 However, DEFENDANT failed to ensure those deductions were properly allocated to said 401(k)  
21 policies.

22 137. Labor Code § 221 provides it is unlawful for any employer to collect or receive  
23 from an employee any part of wages theretofore paid by employer to employee.

24 138. Labor Code § 223 provides that where any statute or contract requires an employer  
25 to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while  
26 purporting to pay the wage designated by statute or by contract. Labor Code section 225 further  
27 provides that the violation of any provision of Labor Code §§ 221 and 223 is a misdemeanor.  
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- c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the applicable IWC Wage Order;
  - d. The wages of all terminated employees from the CALIFORNIA CLASS as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, in accordance with Cal. Lab. Code § 203.
3. On all claims:
- a. An award of interest, including prejudgment interest at the legal rate;
  - b. Such other and further relief as the Court deems just and equitable; and
  - c. An award of penalties, attorneys' fees and costs of suit, as allowable under the law.

DATED: August 9, 2022

**JCL LAW FIRM, APC**

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

**DEMAND FOR A JURY TRIAL**

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

DATED: August 9, 2022

**JCL LAW FIRM, APC**

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