

**SUMMONS  
(CITACION JUDICIAL)**

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

WINCO HOLDINGS, INC, an Idaho Corporation; and DOES 1-50, Inclusive,

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

GENEVA PUTMAN, on behalf of herself and on behalf of all persons similarly situated,

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

**FILED**  
**Superior Court Of California,**  
**Sacramento**  
**08/12/2021**  
**rcaddick**  
**By \_\_\_\_\_, Deputy**  
**Case Number:**  
**34-2021-00305825**

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

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

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

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

Sacramento Superior Court, Gordon D. Schaber Courthouse  
720 9th Street  
Sacramento, CA 95814

CASE NUMBER:  
(Número del Caso):

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

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

R. CADDICK

DATE:  
(Fecha) **AUG 12 2021**

Clerk, by \_\_\_\_\_, Deputy  
(Secretario) (Adjunto)

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



**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: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4.  by personal delivery on (date):

VIA FAX

**JCL LAW FIRM, APC**

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Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF SACRAMENTO**

GENEVA PUTMAN, on behalf of herself and  
on behalf of all persons similarly situated,

Plaintiffs,

v.

WINCO HOLDINGS, INC, an Idaho  
Corporation; and DOES 1-50, Inclusive,

Defendants.

Case No:

**CLASS ACTION COMPLAINT FOR:**

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

**FILED**  
**Superior Court Of California,**  
**Sacramento**  
**08/09/2021**  
**rcaddick**  
**By \_\_\_\_\_, Deputy**  
**Case Number:**  
**34-2021-00305825**

VIA FAX

- 6) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE §§226 and 226.2;
- 7) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
- 8) VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698 *et seq.*]

**DEMAND FOR A JURY TRIAL**

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

**PRELIMINARY ALLEGATIONS**

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

2. DEFENDANTS operate a supermarket chain with locations throughout California, including in Sacramento, California location where PLAINTIFF worked.

3. PLAINTIFF has been employed by DEFENDANTS in California as a non-exempt employee entitled to minimum wages, overtime pay and meal and rest periods since 2008.

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

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



1 required PLAINTIFF and CALIFORNIA CLASS Members to work without paying them for all  
2 the time they were under DEFENDANT control. Specifically, from time to time, PLAINTIFF  
3 performed work before and after the beginning of her shift, as well as during what was supposed  
4 to be her duty-free meal breaks, spending time under the DEFENDANT control for which she  
5 was not compensated. As a result, the PLAINTIFF and other CALIFORNIA CLASS Members  
6 forfeited minimum wage and overtime compensation by regularly working without their time  
7 being accurately recorded and without compensation at the applicable minimum wage and  
8 overtime rates. DEFENDANTS' uniform policy and practice not to pay PLAINTIFF and other  
9 CALIFORNIA CLASS Members for all time worked is evidenced by DEFENDANTS' business  
10 records.

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

24 10. 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 DEFENDANTS 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, on-call, and subject to DEFENDANTS' control in accordance with  
7 DEFENDANTS' policy. Additionally, DEFENDANTS required PLAINTIFF and the  
8 CALIFORNIA CLASS Members to ask for permission before they were allowed to leave the  
9 premises for their rest breaks, further evidencing DEFENDANTS' control in accordance with  
10 DEFENDANTS' policy. PLAINTIFF and other CALIFORNIA CLASS Members were also not  
11 provided with one-hour wages in lieu thereof. DEFENDANTS' policy caused PLAINTIFF and  
12 other CALIFORNIA CLASS Members to remain on-call and on-duty during what was supposed  
13 to be their off-duty rest periods. As a result of their rigorous work schedules, PLAINTIFF and  
14 other CALIFORNIA CLASS Members were periodically denied their proper rest periods by  
15 DEFENDANTS and DEFENDANTS' managers.

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

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

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

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

26           15. Aside from the violations listed herein, DEFENDANTS failed to issue to  
27 PLAINTIFF an itemized wage statement that lists all the requirements under California Labor  
28 Code 226 *et seq.* Specifically, DEFENDANTS violated Cal. Lab. Code Sections 226(a)(2) by

1 issuing itemized wage statements with the incorrect number of hours worked. Specifically,  
2 DEFENDANTS included items, including but not limited to, “Vacation” and “Holiday” into the  
3 total hours worked. However, the foregoing items are not considered total hours worked for  
4 purposes of California Labor Code Section 226(a)(2). Further, with respect to Cal. Lab. Code §  
5 226(a)(2), DEFENDANTS issued itemized wage statements to PLAINTIFF and the other  
6 members of the CALIFORNIA CLASS that included two separate remunerations for overtime  
7 compensation: “OT Premium 50%” and “Day Overtime.” Accordingly, DEFENDANTS’  
8 inclusion of two separate remunerations for overtime compensation also resulted in a failure to  
9 include the accurate total amount of hours worked pursuant to Cal. Lab. Code § 226(a)(2). As a  
10 result, from time to time DEFENDANTS provided PLAINTIFF and the other members of the  
11 CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code § 226.

12         16. By reason of this uniform conduct applicable to PLAINTIFF and all  
13 CALIFORNIA CLASS Members, DEFENDANTS committed acts of unfair competition in  
14 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the  
15 “UCL”), by engaging in a company-wide policy and procedure which failed to accurately  
16 calculate and record all missed meal and rest periods by PLAINTIFF and other CALIFORNIA  
17 CLASS Members. The proper recording of these employees’ missed meal and rest breaks, and  
18 proper payment of minimum wages and overtime, is the DEFENDANTS’ burden. As a result of  
19 DEFENDANTS’ intentional disregard of the obligation to meet this burden, DEFENDANTS  
20 failed to properly pay all required compensation for work performed by the members of the  
21 CALIFORNIA CLASS and violated the California Labor Code and regulations promulgated  
22 thereunder as herein alleged.

23         17. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take  
24 off duty meal and rest breaks and was not fully relieved of duty for her rest and meal periods.  
25 PLAINTIFF was required to perform work as ordered by DEFENDANTS for more than five (5)  
26 hours during a shift without receiving an off-duty meal break. Further, DEFENDANTS failed to  
27 provide PLAINTIFF with a second off-duty meal period each workday in which she was required  
28 by DEFENDANT to work ten (10) hours of work. When DEFENDANTS provided PLAINTIFF

1 with a rest break, they required PLAINTIFF to on-duty and on-call, for the rest break. PLAINTIFF  
2 therefore forfeited meal and rest breaks without additional compensation and in accordance with  
3 DEFENDANTS' strict corporate policy and practice. Moreover, DEFENDANTS also provided  
4 PLAINTIFF with a paystub that failed to accurately display PLAINTIFF's total number of hours  
5 worked, in violation of Cal. Lab. Code § 226(a). To date, DEFENDANTS have not fully paid  
6 PLAINTIFF the overtime compensation still owed to her or any penalty wages owed to her under  
7 Cal. Lab. Code § 203. The amount in controversy for PLAINTIFF individually does not exceed  
8 the sum or value of \$75,000.

### 9 **JURISDICTION AND VENUE**

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

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

### 19 **THE CALIFORNIA CLASS**

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

28

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

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

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

21           24. The CALIFONRIA CLASS is so numerous that joinder of all CALIFORNIA  
22 CLASS Members is impracticable.

23           25. DEFENDANTS uniformly violated the rights of the CALIFORNIA CLASS under  
24 California law by:

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

- 1           b. Committing an act of unfair competition in violation of the California Unfair  
2           Competition Laws, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, by failing to provide  
3           mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS  
4           members; and,
- 5           c. Committing an act of unfair competition in violation of, Cal. Bus. & Prof. Code  
6           §§ 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place  
7           company policies, practices and procedures that uniformly and systematically  
8           failed to record and pay PLAINTIFF and other members of the CALIFORNIA  
9           CLASS for all time worked, including minimum wages owed and overtime wages  
10          owed for work performed by these employees.

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

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

1 on an hourly basis and paid additional non-discretionary incentive wages who was  
2 subjected to the DEFENDANTS' practice and policy which failed to pay the  
3 correct rate of overtime wages due to the CALIFORNIA CLASS for all overtime  
4 worked by the CALIFORNIA CLASS and thereby systematically under pays  
5 overtime compensation to the CALIFORNIA CLASS. PLAINTIFF and the  
6 members of the CALIFORNIA CLASS were and are similarly or identically  
7 harmed by the same unlawful, deceptive, unfair and pervasive pattern of  
8 misconduct engaged in by DEFENDANTS; and

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

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

- 18 a. Without class certification and determination of declaratory, injunctive, statutory  
19 and other legal questions within the class format, prosecution of separate actions  
20 by individual members of the CALIFORNIA CLASS will create the risk of:
- 21 i. Inconsistent or varying adjudications with respect to individual members  
22 of the CALIFORNIA CLASS which would establish incompatible  
23 standards of conduct for the parties opposing the CALIFORNIA CLASS;  
24 and/or;
  - 25 ii. Adjudication with respect to individual members of the CALIFORNIA  
26 CLASS which would as a practical matter be dispositive of interests of the  
27 other members not party to the adjudication or substantially impair or  
28 impede their ability to protect their interests.

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- b. The parties opposing the CALIFORNIA CLASS have acted or refused to act on grounds generally applicable to the CALIFORNIA CLASS, making appropriate class-wide relief with respect to the CALIFORNIA CLASS as a whole in that DEFENDANT uniformly failed to pay all wages due for all time worked by the members of the CALIFORNIA CLASS as required by law;
  - i. With respect to the First Cause of Action, the final relief on behalf of the CALIFORNIA CLASS sought does not relate exclusively to restitution because through this claim PLAINTIFF seek declaratory relief holding that the DEFENDANTS’ policy and practices constitute unfair competition, along with declaratory relief, injunctive relief, and incidental equitable relief as may be necessary to prevent and remedy the conduct declared to constitute unfair competition;
  
- c. Common questions of law and fact exist as to the members of the CALIFORNIA CLASS, with respect to the practices and violations of California law as listed above, and predominate over any question affecting only individual CALIFORNIA CLASS Members, and a Class Action is superior to other available methods for the fair and efficient adjudication of the controversy, including consideration of:
  - i. The interests of the members of the CALIFORNIA CLASS in individually controlling the prosecution or defense of separate actions in that the substantial expense of individual actions will be avoided to recover the relatively small amount of economic losses sustained by the individual CALIFORNIA CLASS Members when compared to the substantial expense and burden of individual prosecution of this litigation;
  - ii. Class certification will obviate the need for unduly duplicative litigation that would create the risk of:

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- 1. Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA CLASS, which would establish incompatible standards of conduct for the DEFENDANTS; and/or;
- 2. Adjudications with respect to individual members of the CALIFORNIA CLASS would as a practical matter be dispositive of the interests of the other members not parties to the adjudication or substantially impair or impede their ability to protect their interests;

iii. In the context of wage litigation, because a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANTS, which may adversely affect an individual’s job with DEFENDANTS or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and

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

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

- a. The questions of law and fact common to the CALIFORNIA CLASS predominate over any question affecting only individual CALIFORNIA CLASS Members because the DEFENDANTS’ employment practices are uniform and systematically applied with respect to the CALIFORNIA CLASS.
- b. A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA CLASS because in the context of employment litigation a substantial number of individual

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

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

**THE CALIFORNIA LABOR SUB-CLASS**

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

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

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

26           33.    The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all  
27 CALIFORNIA LABOR SUB-CLASS Members is impracticable  
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1           34. Common questions of law and fact exist as to members of the CALIFORNIA  
2 LABOR SUB-CLASS, including, but not limited, to the following:

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

25           35. DEFENDANTS violated the rights of the CALIFORNIA LABOR SUB-CLASS  
26 under California law by:  
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- a. Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to pay PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS all wages due for overtime worked, for which DEFENDANTS are liable pursuant to Cal. Lab. Code § 1194;
- b. Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to accurately pay PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS the correct minimum wage pay for which DEFENDANTS are liable pursuant to Cal. Lab. Code §§ 1194 and 1197;
- c. Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFF and the other members of the CALIFORNIA CLASS with all legally required off-duty, uninterrupted thirty (30) minute meal breaks and the legally required rest breaks;
- d. Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized statement in writing;
- e. Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an employee is discharged or quits from employment, the employer must pay the employee all wages due without abatement, by failing to tender full payment and/or restitution of wages owed or in the manner required by California law to the members of the CALIFORNIA LABOR SUB-CLASS who have terminated their employment.

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

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

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 and paid additional non-discretionary incentive  
7 wages who was subjected to the DEFENDANTS' practice and policy which failed  
8 to pay the correct rate of overtime wages and total amount of wages due to the  
9 CALIFORNIA LABOR SUB-CLASS. PLAINTIFF sustained economic injury as  
10 a result of DEFENDANTS' employment practices. PLAINTIFF and the members  
11 of the CALIFORNIA LABOR SUB-CLASS were and are similarly or identically  
12 harmed by the same unlawful, deceptive, unfair and pervasive pattern of  
13 misconduct engaged in by DEFENDANTS; and

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

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

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

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

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

iii. In the context of wage litigation because a substantial number of individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANTS, which may adversely affect an individual’s job with DEFENDANTS or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and,

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

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

a. The questions of law and fact common to the CALIFORNIA LABOR SUB-CLASS predominate over any question affecting only individual CALIFORNIA LABOR SUB-CLASS Members;

b. A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA LABOR SUB-CLASS because in the context of employment litigation a substantial number of

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- individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their rights individually out of fear of retaliation or adverse impact on their employment;
- c. The members of the CALIFORNIA LABOR SUB-CLASS are so numerous that it is impractical to bring all members of the CALIFORNIA LABOR SUB-CLASS before the Court;
  - d. PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS Members, will not be able to obtain effective and economic legal redress unless the action is maintained as a Class Action;
  - e. There is a community of interest in obtaining appropriate legal and equitable relief for the acts of unfair competition, statutory violations and other improprieties, and in obtaining adequate compensation for the damages and injuries which DEFENDANTS' actions have inflicted upon the CALIFORNIA LABOR SUB-CLASS;
  - f. There is a community of interest in ensuring that the combined assets of DEFENDANTS are sufficient to adequately compensate the members of the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
  - g. DEFENDANTS have acted or refused to act on grounds generally applicable to the CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief appropriate with respect to the CALIFORNIA LABOR SUB-CLASS as a whole;
  - h. The members of the CALIFORNIA LABOR SUB-CLASS are readily ascertainable from the business records of DEFENDANTS. The CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA CLASS Members classified as non-exempt employees during the CALIFORNIA LABOR SUB-CLASS PERIOD; and
  - i. Class treatment provides manageable judicial treatment calculated to bring an efficient and rapid conclusion to all litigation of all wage and hour related claims

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

3 **FIRST CAUSE OF ACTION**

4 **UNLAWFUL BUSINESS PRACTICES**

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

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

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

10 40. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.  
11 Code § 17021.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 **SECOND CAUSE OF ACTION**

4 **FAILURE TO PAY MINIMUM WAGES**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1           69.    PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
2 bring a claim for DEFENDANTS’ willful and intentional violations of the California Labor Code  
3 and the Industrial Welfare Commission requirements for DEFENDANTS’ failure to accurately  
4 calculate the applicable rates for all overtime worked by PLAINTIFF and other members of the  
5 CALIFORNIA LABOR SUB-CLASS and DEFENDANTS’ failure to properly compensate the  
6 members of the CALIFORNIA LABOR SUB-CLASS for overtime worked, including, work  
7 performed in excess of eight (8) hours in a workday and/or forty (40) hours in any workweek.

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

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

14          72.    Cal. Lab. Code § 1194 establishes an employee’s right to recover unpaid wages,  
15 including overtime compensation and interest thereon, together with the costs of suit. Cal. Lab.  
16 Code § 1198 further states that the employment of an employee for longer hours than those fixed  
17 by the Industrial Welfare Commission is unlawful.

18          73.    DEFENDANTS maintained a uniform wage practice of paying PLAINTIFF and  
19 the other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct  
20 amount of overtime worked. As set forth herein, DEFENDANTS’ uniform policy and practice  
21 was to unlawfully and intentionally deny timely payment of wages due for the overtime worked  
22 by PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS, and  
23 DEFENDANTS in fact failed to pay these employees the correct applicable overtime wages for  
24 all overtime worked.

25          74.    DEFENDANTS’ 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 denied accurate compensation to PLAINTIFF  
28 and the other members of the CALIFORNIA LABOR SUB-CLASS for all overtime worked,

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

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

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

12 77. Cal. Lab. Code § 515 sets out various categories of employees who are exempt from  
13 the overtime requirements of the law. None of these exemptions are applicable to PLAINTIFF  
14 and the other members of the CALIFORNIA LABOR SUB-CLASS. Further PLAINTIFF and the  
15 other members of the CALIFORNIA LABOR SUB-CLASS are not subject to a valid collective  
16 bargaining agreement that would preclude the causes of action contained herein this Complaint.  
17 Rather, PLAINTIFF brings this Action on behalf of herself and the CALIFORNIA LABOR SUB-  
18 CLASS based on DEFENDANTS' violations of non-negotiable, non-waivable rights provided by  
19 the State of California.

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

23 79. DEFENDANTS failed to accurately pay PLAINTIFF and the other members of the  
24 CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which was in  
25 excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 &  
26 1198, even though PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
27 CLASS were required to work, and did in fact work, overtime as to which DEFENDANT failed  
28

1 to accurately record and pay using the applicable overtime rate as evidenced by DEFENDANT’S  
2 business records and witnessed by employees.

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

8 81. DEFENDANTS knew or should have known that PLAINTIFF and the other  
9 members of the CALIFORNIA LABOR SUB-CLASS are under compensated for their overtime  
10 worked. DEFENDANTS systematically elected, either through intentional malfeasance or gross  
11 nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice  
12 and procedure, and DEFENDANTS perpetrated this systematic scheme by refusing to pay  
13 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS the applicable  
14 overtime rate.

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

23 83. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
24 therefore request recovery of all unpaid wages, including overtime wages, according to proof,  
25 interest, statutory costs, as well as the assessment of any statutory penalties against  
26 DEFENDANTS, in a sum as provided by the California Labor Code and/or other applicable  
27 statutes. To the extent overtime compensation is determined to be owed to the CALIFORNIA  
28 LABOR SUB-CLASS Members who have terminated their employment, DEFENDANTS’

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

6 **FOURTH CAUSE OF ACTION**

7 **FAILURE TO PROVIDE REQUIRED MEAL PERIODS**

8 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

14 85. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to provide all  
15 the legally required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA LABOR  
16 SUB-CLASS Members as required by the applicable Wage Order and Labor Code. The nature of  
17 the work performed by PLAINTIFF and CALIFORNIA LABOR SUB-CLASS MEMBERS did  
18 not prevent these employees from being relieved of all of their duties for the legally required off-  
19 duty meal periods. As a result of their rigorous work schedules, PLAINTIFF and other  
20 CALIFORNIA LABOR SUB-CLASS Members were often not fully relieved of duty by  
21 DEFENDANTS for their meal periods. Additionally, DEFENDANTS' failure to provide  
22 PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members with legally required meal  
23 breaks prior to their fifth (5th) hour of work is evidenced by DEFENDANTS' business records.  
24 As a result, PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS  
25 therefore forfeited meal breaks without additional compensation and in accordance with  
26 DEFENDANTS' strict corporate policy and practice.

27 86. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable  
28 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-

1 CLASS Members who were not provided a meal period, in accordance with the applicable Wage  
2 Order, one additional hour of compensation at each employee's regular rate of pay for each  
3 workday that a meal period was not provided.

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

7 **FIFTH CAUSE OF ACTION**

8 **FAILURE TO PROVIDE REQUIRED REST PERIODS**

9 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

15 89. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were  
16 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.  
17 Further, these employees were denied their first rest periods of at least ten (10) minutes for some  
18 shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10)  
19 minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and  
20 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more.  
21 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were also not provided  
22 with one hour wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF  
23 and other CALIFORNIA LABOR SUB-CLASS Members were periodically denied their proper  
24 rest periods by DEFENDANTS and DEFENDANTS' managers. When DEFENDANTS provided  
25 PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members with rest break, they  
26 required PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members to stay on  
27 DEFENDANTS' premises for those rest breaks.

28



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

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

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

17 95. When DEFENDANTS did not accurately record PLAINTIFF’S and other  
18 CALIFORNIA CLASS Members’ wages, including overtime wages, owed, DEFENDANTS also  
19 failed to provide PLAINTIFF and the other members of the CALIFORNIA CLASS with complete  
20 and accurate wage statements which failed to show, among other things, the correct overtime rate,  
21 the correct number of hours worked, missed meal and rest periods, owed to PLAINTIFF and other  
22 CALIFORNIA CLASS Members. Cal. Lab. Code § 226 provides that every employer shall  
23 furnish each of his or her employees with an accurate itemized wage statement in writing showing,  
24 among other things, gross wages earned and all applicable hourly rates in effect during the pay  
25 period and the corresponding amount of time worked at each hourly rate. Aside from the  
26 violations listed above in this paragraph, DEFENDANTS failed to issue to PLAINTIFF an  
27 itemized wage statement that lists all the requirements under California Labor Code 226 *et seq.*  
28 Specifically, DEFENDANTS included items, including but not limited to, “Vacation” and

1 “Holiday” into the total hours worked. However, the foregoing items are not considered total  
2 hours worked for purposes of California Labor Code Section 226(a)(2). Further, with respect to  
3 Cal. Lab. Code § 226(a)(2), DEFENDANTS issued itemized wage statements to PLAINTIFF and  
4 the other members of the CALIFORNIA LABOR SUB-CLASS that included two separate  
5 remunerations for overtime compensation: “OT Premium 50%” and “Day Overtime.”  
6 Accordingly, DEFENDANTS’ inclusion of two separate remunerations for overtime  
7 compensation also resulted in a failure to include the accurate total amount of hours worked  
8 pursuant to Cal. Lab. Code § 226(a)(2). Specifically, DEFENDANTS violated Cal. Lab. Code  
9 Sections 226(a)(9) by issuing itemized wage statements with the incorrect number of total hours  
10 worked. As a result, from time to time DEFENDANTS provided PLAINTIFF and the other  
11 members of the CALIFORNIA LABOR SUB-CLASS with wage statements which violated Cal.  
12 Lab. Code § 226.

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

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1 **SEVENTH CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES WHEN DUE**

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

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

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

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

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

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

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

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

1 mailing shall constitute the date of payment for purposes of the requirement to  
2 provide payment within 72 hours of the notice of quitting.

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

5 102. Cal. Lab. Code § 203 provides:

6  
7 If an employer willfully fails to pay, without abatement or reduction, in accordance  
8 with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is  
9 discharged or who quits, the wages of the employee shall continue as a penalty  
10 from the due date thereof at the same rate until paid or until an action therefor is  
11 commenced; but the wages shall not continue for more than 30 days.

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

18 **EIGHTH CAUSE OF ACTION**

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

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

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

22 104. PLAINTIFF realleges and incorporates by this reference, as though fully set forth  
23 herein, the prior paragraphs of this Complaint.

24 105. PAGA is a mechanism by which the State of California itself can enforce state  
25 labor laws through the employee suing under the PAGA who does so as the proxy or agent of the  
26 state's labor law enforcement agencies. An action to recover civil penalties under PAGA is  
27 fundamentally a law enforcement action designed to protect the public and not to benefit private  
28 parties. The purpose of the PAGA is not to recover damages or restitution, but to create a means

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

5 106. PLAINTIFF, and such persons that may be added from time to time who satisfy  
6 the requirements and exhaust the administrative procedures under the Private Attorney General  
7 Act, bring this Representative Action on behalf of the State of California with respect to  
8 themselves and all individuals who are or previously were employed by DEFENDANT and  
9 classified as non-exempt employees in California during the time period of May 31, 2020 until  
10 the present (the "AGGRIEVED EMPLOYEES").

11 107. On May 31, 2021, PLAINTIFF gave written notice by certified mail to the Labor  
12 and Workforce Development Agency (the "Agency") and the employer of the specific  
13 provisions of this code alleged to have been violated as required by Labor Code § 2699.3. See  
14 Exhibit #1, attached hereto and incorporated by this reference herein. The statutory waiting  
15 period for Plaintiff to add these allegations to the Complaint has expired. As a result, pursuant  
16 to Section 2699.3, Plaintiff may now commence a representative civil action under PAGA  
17 pursuant to Section 2699 as the proxy of the State of California with respect to all AGGRIEVED  
18 EMPLOYEES as herein defined.

19 108. The policies, acts and practices heretofore described were and are an unlawful  
20 business act or practice because DEFENDANTS (a) failed to properly record and pay  
21 PLAINTIFF and the other AGGRIEVED EMPLOYEES for all of the hours they worked,  
22 including overtime hours in violation of the Wage Order, (b) failed to provide accurate itemized  
23 wage statements, (c) failed to provide mandatory meal breaks and rest breaks, and (d) failed to  
24 timely pay wages, all in violation of the applicable Labor Code sections listed in Labor Code  
25 §2699.5, including but not limited to Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6,  
26 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198,  
27 1199, 2802, and 2804, and the applicable Industrial Wage Order(s), and thereby gives rise to  
28 statutory penalties as a result of such conduct. PLAINTIFF hereby seeks recovery of civil

1 penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as the  
2 representative of the State of California for the illegal conduct perpetrated on PLAINTIFF and  
3 the other AGGRIEVED EMPLOYEES.

4 **PRAYER FOR RELIEF**

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

7 1. On behalf of the CALIFORNIA CLASS:

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

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

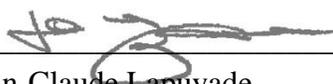
- 19 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, and Seventh Causes  
20 of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class action  
21 pursuant to Cal. Code of Civ. Proc. § 382;
- 22 b. Compensatory damages, according to proof at trial, including compensatory  
23 damages for minimum wages, overtime wages, and other compensation due to  
24 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS,  
25 during the applicable CALIFORNIA LABOR SUB-CLASS PERIOD plus interest  
26 thereon at the statutory rate;
- 27 c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and  
28 the applicable IWC Wage Order;

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- d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per member of the CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226; and,
  - e. The wages of all terminated employees from the CALIFORNIA LABOR SUB-CLASS as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, in accordance with Cal. Lab. Code § 203.
3. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:
- a. Recovery of civil penalties as prescribed by the Labor Code Private Attorneys General Act of 2004
4. On all claims:
- a. An award of interest, including prejudgment interest at the legal rate;
  - b. Such other and further relief as the Court deems just and equitable; and
  - c. An award of penalties, attorneys' fees and costs of suit, as allowable under the law, including, but not limited to, pursuant to Labor Code § 218.5, § 226, §1194, and/or §1197.

DATED: August 6, 2021

**JCL LAW FIRM, APC**

By:   
Jean-Claude Lapuyade  
Attorney for Plaintiffs

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**DEMAND FOR A JURY TRIAL**

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

DATED: August 6, 2021

**JCL LAW FIRM, APC**

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

# **EXHIBIT 1**



ZAKAY LAW GROUP  
A PROFESSIONAL LAW CORPORATION

Client # 38601

May 31, 2021

**Via Online Filing to LWDA and Certified Mail to Defendants**

**Labor and Workforce Development Agency**

Online Filing

<p>Labor &amp; Workforce Development Agency Attn. PAGA Administrator 1515 Clay Street, Ste. 801 Oakland, CA 94612 PAGA@dir.ca.gov <i>Via Online Submission</i></p>	<p><b>WINCO HOLDINGS, INC.</b> c/o CSC – Lawyers Incorporating Service 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833</p>
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**Re: Notice of Violations of California Labor Code Sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, and 2804, 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 GENEVA PUTMAN (“Plaintiff”), and other aggrieved employees in a proposed lawsuit against WINCO HOLDINGS, INC. Plaintiff has been employed by Defendant in California since 2008 as a non-exempt employee, entitled to payment of all wages and the legally required meal and rest breaks. 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. Further, Defendant failed to timely pay Plaintiff and other aggrieved employees for earned wages.

As a consequence of the aforementioned violations, Plaintiff further contends that Defendant failed to provide accurate wage statements to her, and other aggrieved employees, in violation of California Labor Code section 226(a). Said conduct, in addition to the foregoing, violates Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, and 2804, violates the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

**Plaintiff seeks to represent a group of aggrieved employees defined as all non-exempt and exempt employees who worked for Defendant during the relevant claim period.**

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 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 long horizontal flourish extending to the right.

Shani O. Zakay  
Attorney for Plaintiff

1 **ZAKAY LAW GROUP, APLC**  
Shani O. Zakay (State Bar #277924)  
2 Jackland K. Hom (State Bar #327243)  
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3 San Diego, CA 92110  
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4 Facsimile: (858) 404-9203

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

9 Attorneys for Plaintiffs

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

12 GENEVA PUTMAN, on behalf of herself  
and on behalf of all persons similarly  
13 situated,

14 Plaintiffs,

15 v.

16 WINCO HOLDINGS, INC, an Idaho  
Corporation; and DOES 1-50, Inclusive,

17 DEFENDANTS.  
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Case No:

**CLASS ACTION COMPLAINT FOR:**

- 1) UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §17200 *et seq*;
- 2) FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
- 3) FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq*;
- 4) FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 5) FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 6) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE §§226 and 226.2;
- 7) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203.

**DEMAND FOR A JURY TRIAL**

1 Plaintiff Geneva Putman, an individual, (“PLAINTIFF”), on behalf of herself and all other  
2 similarly situated current and former employees, alleges on information and belief, except for her  
3 own acts and knowledge which are based on personal knowledge, the following:

4 **PRELIMINARY ALLEGATIONS**

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

7 2. DEFENDANTS operate a a supermarket chain with locations throughout  
8 California, including in Sacramento, California location where PLAINTIFF worked.

9 3. PLAINTIFF has been employed by DEFENDANTS in California as a non-exempt  
10 employee entitled to minimum wages, overtime pay and meal and rest periods since 2008.

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

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



1 overtime rates. DEFENDANTS' uniform policy and practice not to pay PLAINTIFF and other  
2 CALIFORNIA CLASS Members for all time worked is evidenced by DEFENDANTS' business  
3 records.

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

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

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

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

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

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

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

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

19 15. Aside from the violations listed herein, DEFENDANTS failed to issue to  
20 PLAINTIFF an itemized wage statement that lists all the requirements under California Labor  
21 Code 226 *et seq.* Specifically, DEFENDANTS violated Cal. Lab. Code Sections 226(a)(2) by  
22 issuing itemized wage statements with the incorrect number of hours worked. As a result, from  
23 time to time DEFENDANTS provided PLAINTIFF and the other members of the CALIFORNIA  
24 CLASS with wage statements which violated Cal. Lab. Code § 226.

25 16. By reason of this uniform conduct applicable to PLAINTIFF and all  
26 CALIFORNIA CLASS Members, DEFENDANTS committed acts of unfair competition in  
27 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the  
28 "UCL"), by engaging in a company-wide policy and procedure which failed to accurately

1 calculate and record all missed meal and rest periods by PLAINTIFF and other CALIFORNIA  
2 CLASS Members. The proper recording of these employees' missed meal and rest breaks, and  
3 proper payment of minimum wages and overtime, is the DEFENDANTS' burden. As a result of  
4 DEFENDANTS' intentional disregard of the obligation to meet this burden, DEFENDANTS  
5 failed to properly pay all required compensation for work performed by the members of the  
6 CALIFORNIA CLASS and violated the California Labor Code and regulations promulgated  
7 thereunder as herein alleged.

8 17. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take  
9 off duty meal and rest breaks and was not fully relieved of duty for his rest and meal periods.  
10 PLAINTIFF was required to perform work as ordered by DEFENDANTS for more than five (5)  
11 hours during a shift without receiving an off-duty meal break. Further, DEFENDANTS failed to  
12 provide PLAINTIFF with a second off-duty meal period each workday in which he was required  
13 by DEFENDANT to work ten (10) hours of work. When DEFENDANTS provided PLAINTIFF  
14 with a rest break, they required PLAINTIFF to on-duty and on-call, for the rest break. PLAINTIFF  
15 therefore forfeited meal and rest breaks without additional compensation and in accordance with  
16 DEFENDANTS' strict corporate policy and practice. Moreover, DEFENDANTS also provided  
17 PLAINTIFF with a paystub that failed to accurately display PLAINTIFF's total number of hours  
18 worked, in violation of Cal. Lab. Code § 226(a). To date, DEFENDANTS have not fully paid  
19 PLAINTIFF the overtime compensation still owed to his or any penalty wages owed to him under  
20 Cal. Lab. Code § 203. The amount in controversy for PLAINTIFF individually does not exceed  
21 the sum or value of \$75,000.

#### 22 **JURISDICTION AND VENUE**

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

27 19. Venue is proper in this Court pursuant to California Code of Civil Procedure,  
28 Sections 395 and 395.5, because DEFENDANTS (i) currently maintain and at all relevant times

1 maintained offices and facilities in this County and/or conduct substantial business in this County,  
2 and (ii) committed the wrongful conduct herein alleged in this County against members of the  
3 CALIFORNIA CLASS and CALIFORNIA LABOR SUB-CLASS.

4 **THE CALIFORNIA CLASS**

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

13 21. To the extent equitable tolling operates to toll claims by the CALIFORNIA  
14 CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted  
15 accordingly.

16 22. DEFENDANTS, as a matter of company policy, practice and procedure, and in  
17 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order  
18 requirements, and the applicable provisions of California law, intentionally, knowingly, and  
19 willfully, engaged in a practice whereby DEFENDANTS systematically failed to record all meal  
20 and rest breaks missed by PLAINTIFF and the other members of the CALIFORNIA CLASS,  
21 even though DEFENDANTS enjoyed the benefit of this work, required employees to perform  
22 this work and permitted or suffered to permit this work.

23 23. DEFENDANTS have the legal burden to establish that each and every  
24 CALIFORNIA CLASS Member was paid accurately and was provided all meal and rest breaks  
25 missed as required by California laws. DEFENDANTS, however, as a matter of uniform and  
26 systematic policy and procedure failed to have in place during the CALIFORNIA CLASS  
27 PERIOD and still fails to have in place a policy or practice to ensure that each and every  
28 CALIFORNIA CLASS Member is paid as required by law, so as to satisfy its burden. This

1 common business practice applicable to each and every CALIFORNIA CLASS Member can be  
2 adjudicated on a class-wide basis as unlawful, unfair, and/or deceptive under Cal. Business &  
3 Professions Code §§ 17200, *et seq.* (the “UCL”) as causation, damages, and reliance are not  
4 elements of this claim.

5 24. The CALIFORNIA CLASS is so numerous that joinder of all CALIFORNIA  
6 CLASS Members is impracticable.

7 25. DEFENDANTS uniformly violated the rights of the CALIFORNIA CLASS under  
8 California law by:

- 9 a. Violating the California Unfair Competition Laws, Cal. Bus. & Prof. Code §§  
10 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place company  
11 policies, practices and procedures that failed to pay all wages due the  
12 CALIFORNIA CLASS for all time worked;
- 13 b. Committing an act of unfair competition in violation of the California Unfair  
14 Competition Laws, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, by failing to provide  
15 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS  
16 members; and,
- 17 c. Committing an act of unfair competition in violation of, Cal. Bus. & Prof. Code  
18 §§ 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place  
19 company policies, practices and procedures that uniformly and systematically  
20 failed to record and pay PLAINTIFF and other members of the CALIFORNIA  
21 CLASS for all time worked, including minimum wages owed and overtime wages  
22 owed for work performed by these employees.

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

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

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

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

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

6                 i. Inconsistent or varying adjudications with respect to individual members  
7 of the CALIFORNIA CLASS which would establish incompatible  
8 standards of conduct for the parties opposing the CALIFORNIA CLASS;  
9 and/or;

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

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

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

26           c. Common questions of law and fact exist as to the members of the CALIFORNIA  
27 CLASS, with respect to the practices and violations of California law as listed  
28 above, and predominate over any question affecting only individual

1 CALIFORNIA CLASS Members, and a Class Action is superior to other available  
2 methods for the fair and efficient adjudication of the controversy, including  
3 consideration of:

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

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

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

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

20 iii. In the context of wage litigation, because a substantial number of  
21 individual CALIFORNIA CLASS Members will avoid asserting their legal  
22 rights out of fear of retaliation by DEFENDANTS, which may adversely  
23 affect an individual's job with DEFENDANTS or with a subsequent  
24 employer, the Class Action is the only means to assert their claims through  
25 a representative; and

26 iv. A class action is superior to other available methods for the fair and  
27 efficient adjudication of this litigation because class treatment will obviate  
28 the need for unduly and unnecessary duplicative litigation that is likely to

1 result in the absence of certification of this action pursuant to Cal. Code of  
2 Civ. Proc. § 382.

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

- 5 a. The questions of law and fact common to the CALIFORNIA CLASS predominate  
6 over any question affecting only individual CALIFORNIA CLASS Members  
7 because the DEFENDANTS' employment practices are uniform and  
8 systematically applied with respect to the CALIFORNIA CLASS.
- 9 b. A Class Action is superior to any other available method for the fair and efficient  
10 adjudication of the claims of the members of the CALIFORNIA CLASS because  
11 in the context of employment litigation a substantial number of individual  
12 CALIFORNIA CLASS Members will avoid asserting their rights individually out  
13 of fear of retaliation or adverse impact on their employment;
- 14 c. The members of the CALIFORNIA CLASS are so numerous that it is impractical  
15 to bring all members of the CALIFORNIA CLASS before the Court;
- 16 d. PLAINTIFF, and the other CALIFORNIA CLASS Members, will not be able to  
17 obtain effective and economic legal redress unless the action is maintained as a  
18 Class Action;
- 19 e. There is a community of interest in obtaining appropriate legal and equitable relief  
20 for the acts of unfair competition, statutory violations and other improprieties, and  
21 in obtaining adequate compensation for the damages and injuries which  
22 DEFENDANTS' actions have inflicted upon the CALIFORNIA CLASS;
- 23 f. There is a community of interest in ensuring that the combined assets of  
24 DEFENDANTS are sufficient to adequately compensate the members of the  
25 CALIFORNIA CLASS for the injuries sustained;
- 26 g. DEFENDANTS have acted or refused to act on grounds generally applicable to  
27 the CALIFORNIA CLASS, thereby making final class-wide relief appropriate  
28 with respect to the CALIFORNIA CLASS as a whole;



1 competition and unlawfully profit. To the extent equitable tolling operates to toll claims by the  
2 CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR SUB-  
3 CLASS PERIOD should be adjusted accordingly.

4 32. DEFENDANTS maintain records from which the Court can ascertain and identify  
5 by name and job title, each of DEFENDANTS' employees who have been systematically,  
6 intentionally and uniformly subjected to DEFENDANT'S company policy, practices and  
7 procedures as herein alleged. PLAINTIFF will seek leave to amend the Complaint to include any  
8 additional job titles of similarly situated employees when they have been identified.

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

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

- 13 a. Whether DEFENDANTS unlawfully failed to pay compensation due to members  
14 of the CALIFORNIA LABOR SUB- CLASS for missed meal and rest breaks in  
15 violation of the California Labor Code and California regulations and the  
16 applicable California Wage Order;
- 17 b. Whether DEFENDANTS failed to provide PLAINTIFF and the other members of  
18 the CALIFORNIA LABOR SUB-CLASS with legally required uninterrupted  
19 thirty (30) minute meal breaks and rest periods;
- 20 c. Whether DEFENDANTS failed to provide PLAINTIFF and the other members of  
21 the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage  
22 statements;
- 23 d. Whether DEFENDANTS unlawfully failed to pay overtime compensation to  
24 members of the CALIFORNIA LABOR SUB-CLASS in violation of the  
25 California Labor Code and California regulations and the applicable California  
26 Wage Order;

- 1 e. Whether the members of the CALIFORNIA LABOR SUB-CLASS are entitled to
- 2 compensation for time worked, including overtime worked, under the overtime
- 3 pay requirements of California law;
- 4 f. Whether DEFENDANTS have engaged in unfair competition by the above-listed
- 5 conduct;
- 6 g. The proper measure of damages and penalties owed to the members of the
- 7 CALIFORNIA LABOR SUB-CLASS; and
- 8 h. Whether DEFENDANTS' conduct was willful.

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

- 11 a. Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to pay PLAINTIFF and the
- 12 members of the CALIFORNIA LABOR SUB-CLASS all wages due for overtime
- 13 worked, for which DEFENDANTS are liable pursuant to Cal. Lab. Code § 1194;
- 14 b. Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to accurately
- 15 pay PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS
- 16 the correct minimum wage pay for which DEFENDANTS are liable pursuant to
- 17 Cal. Lab. Code §§ 1194 and 1197;
- 18 c. Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFF and
- 19 the other members of the CALIFORNIA CLASS with all legally required off-duty,
- 20 uninterrupted thirty (30) minute meal breaks and the legally required rest breaks;
- 21 d. Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the
- 22 members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized
- 23 statement in writing;
- 24 e. Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an
- 25 employee is discharged or quits from employment, the employer must pay the
- 26 employee all wages due without abatement, by failing to tender full payment
- 27 and/or restitution of wages owed or in the manner required by California law to
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1 the members of the CALIFORNIA LABOR SUB-CLASS who have terminated  
2 their employment.

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

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

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

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

24 d. The representative PLAINTIFF will fairly and adequately represent and protect  
25 the interest of the CALIFORNIA LABOR SUB-CLASS, and has retained counsel  
26 who are competent and experienced in Class Action litigation. There are no  
27 material conflicts between the claims of the representative PLAINTIFF and the  
28 members of the CALIFORNIA LABOR SUB-CLASS that would make class

1 certification inappropriate. Counsel for the CALIFORNIA LABOR SUB-CLASS  
2 will vigorously assert the claims of all CALIFORNIA LABOR SUB-CLASS  
3 Members.

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

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

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

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

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

24 c. Common questions of law and fact predominate as to the members of the  
25 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and violations  
26 of California Law as listed above, and predominate over any question affecting  
27 only individual CALIFORNIA LABOR SUB-CLASS Members, and a Class  
28

1 Action is superior to other available methods for the fair and efficient adjudication  
2 of the controversy, including consideration of:

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

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

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

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

20 iii. In the context of wage litigation because a substantial number of individual  
21 CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their  
22 legal rights out of fear of retaliation by DEFENDANTS, which may  
23 adversely affect an individual's job with DEFENDANTS or with a  
24 subsequent employer, the Class Action is the only means to assert their  
25 claims through a representative; and,

26 iv. A class action is superior to other available methods for the fair and  
27 efficient adjudication of this litigation because class treatment will obviate  
28 the need for unduly and unnecessary duplicative litigation that is likely to

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result in the absence of certification of this action pursuant to Cal. Code of Civ. Proc. § 382.

38. 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 their rights individually out of fear of retaliation or adverse impact on their employment;
- c. The members of the CALIFORNIA LABOR SUB-CLASS are so numerous that it is impractical to bring all members of the CALIFORNIA LABOR SUB-CLASS before the Court;
- d. PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS Members, will not be able to obtain effective and economic legal redress unless the action is maintained as a Class Action;
- e. There is a community of interest in obtaining appropriate legal and equitable relief for the acts of unfair competition, statutory violations and other improprieties, and in obtaining adequate compensation for the damages and injuries which DEFENDANTS’ actions have inflicted upon the CALIFORNIA LABOR SUB-CLASS;
- f. There is a community of interest in ensuring that the combined assets of DEFENDANTS are sufficient to adequately compensate the members of the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;

- 1 g. DEFENDANTS have acted or refused to act on grounds generally applicable to  
2 the CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief  
3 appropriate with respect to the CALIFORNIA LABOR SUB-CLASS as a whole;
- 4 h. The members of the CALIFORNIA LABOR SUB-CLASS are readily  
5 ascertainable from the business records of DEFENDANTS. The CALIFORNIA  
6 LABOR SUB-CLASS consists of all CALIFORNIA CLASS Members classified  
7 as non-exempt employees during the CALIFORNIA LABOR SUB-CLASS  
8 PERIOD; 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 DEFENDANTS as to the members of the  
12 CALIFORNIA LABOR SUB-CLASS.

13 **FIRST CAUSE OF ACTION**

14 **UNLAWFUL BUSINESS PRACTICES**

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

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

17 39. 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 40. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.  
21 Code § 17021.

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

26 Any person who engages, has engaged, or proposes to engage in unfair competition may  
27 be enjoined in any court of competent jurisdiction. The court may make such orders or  
28 judgments, including the appointment of a receiver, as may be necessary to prevent the  
use or employment by any person of any practice which constitutes unfair competition, as  
defined in this chapter, or as may be necessary to restore to any person in interest any

1 money or property, real or personal, which may have been acquired by means of such  
2 unfair competition. (Cal. Bus. & Prof. Code § 17203).

3 42. By the conduct alleged herein, DEFENDANTS have engaged and continues to  
4 engage in a business practice which violates California law, including but not limited to, the  
5 applicable Wage Order(s), the California Code of Regulations and the California Labor Code  
6 including Sections 201, 202, 203, 204, 206.5, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, and  
7 1198, for which this Court should issue declaratory and other equitable relief pursuant to Cal.  
8 Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to  
9 constitute unfair competition, including restitution of wages wrongfully withheld.

10 43. By the conduct alleged herein, DEFENDANTS' practices were unlawful and  
11 unfair in that these practices violated public policy, were immoral, unethical, oppressive  
12 unscrupulous or substantially injurious to employees, and were without valid justification or  
13 utility for which this Court should issue equitable and injunctive relief pursuant to Section 17203  
14 of the California Business & Professions Code, including restitution of wages wrongfully  
15 withheld.

16 44. By the conduct alleged herein, DEFENDANTS' practices were deceptive and  
17 fraudulent in that DEFENDANTS' uniform policy and practice failed to pay PLAINTIFF, and  
18 other members of the CALIFORNIA CLASS, wages due, failed to accurately to record the time  
19 worked, and failed to reimburse for expenses due to a systematic practice that cannot be justified,  
20 pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in  
21 violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive  
22 and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages  
23 wrongfully withheld.

24 45. By the conduct alleged herein, DEFENDANTS' practices were also unlawful,  
25 unfair and deceptive in that DEFENDANTS' employment practices caused PLAINTIFF and the  
26 other members of the CALIFORNIA CLASS to be underpaid during their employment with  
27 DEFENDANTS.  
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1           46. By the conduct alleged herein, DEFENDANTS’ practices were also unfair and  
2 deceptive in that DEFENDANTS’ uniform policies, practices and procedures failed to provide  
3 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members.

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

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

12           49. By and through the unlawful and unfair business practices described herein,  
13 DEFENDANTS have obtained valuable property, money and services from PLAINTIFF and the  
14 other members of the CALIFORNIA CLASS, including earned wages, and has deprived them of  
15 valuable rights and benefits guaranteed by law and contract, all to the detriment of these  
16 employees and to the benefit of DEFENDANTS so as to allow DEFENDANT to unfairly compete  
17 against competitors who comply with the law.

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

23           51. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to,  
24 and do, seek such relief as may be necessary to restore to them the money and property which  
25 DEFENDANTS have acquired, or of which PLAINTIFF and the other members of the  
26 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and unfair  
27 business practices, including earned but unpaid wages.

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1 52. PLAINTIFF and the other members of the CALIFORNIA CLASS are further  
2 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair  
3 and deceptive, and that injunctive relief should be issued restraining DEFENDANTS from  
4 engaging in any unlawful and unfair business practices in the future.

5 53. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,  
6 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of  
7 DEFENDANTS. Further, the practices herein alleged presently continue to occur unabated. As a  
8 result of the unlawful and unfair business practices described herein, PLAINTIFF and the other  
9 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal  
10 and economic harm unless DEFENDANTS are restrained from continuing to engage in these  
11 unlawful and unfair business practices.

12 **SECOND CAUSE OF ACTION**

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

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

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

20 55. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
21 bring a claim for DEFENDANTS' willful and intentional violations of the California Labor Code  
22 and the Industrial Welfare Commission requirements for DEFENDANTS' failure to accurately  
23 calculate and pay minimum wages to PLAINTIFF and CALIFORNIA CLASS Members.

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

26 57. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the  
27 commission is the minimum wage to be paid to employees, and the payment of a wage less than  
28 the minimum so fixed is unlawful.

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

3           59. DEFENDANTS maintained a uniform wage practice of paying PLAINTIFF and  
4 the other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct  
5 amount of time they work. As set forth herein, DEFENDANT'S uniform policy and practice was  
6 to unlawfully and intentionally deny timely payment of wages due to PLAINTIFF and the other  
7 members of the CALIFORNIA LABOR SUB-CLASS.

8           60. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,  
9 without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result  
10 of implementing a uniform policy and practice that denies accurate compensation to PLAINTIFF  
11 and the other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum wage  
12 pay.

13           61. In committing these violations of the California Labor Code, DEFENDANTS  
14 inaccurately calculated the correct time worked and consequently underpaid the actual time  
15 worked by PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS.  
16 DEFENDANTS acted in an illegal attempt to avoid the payment of all earned wages, and other  
17 benefits in violation of the California Labor Code, the Industrial Welfare Commission  
18 requirements and other applicable laws and regulations.

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

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

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

1           65. DEFENDANTS knew or should have known that PLAINTIFF and the other  
2 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time  
3 worked. DEFENDANTS systematically elected, either through intentional malfeasance or gross  
4 nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice  
5 and procedure, and DEFENDANTS perpetrated this systematic scheme by refusing to pay  
6 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS the correct  
7 minimum wages for their time worked.

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

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

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**THIRD CAUSE OF ACTION**

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

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

68. 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.

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

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

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

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

73. DEFENDANTS maintained a uniform wage practice of paying PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct amount of overtime worked. As set forth herein, DEFENDANTS' uniform policy and practice was to unlawfully and intentionally deny timely payment of wages due for the overtime worked by PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS, and

1 DEFENDANTS in fact failed to pay these employees the correct applicable overtime wages for  
2 all overtime worked.

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

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

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

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

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

79. DEFENDANTS failed to accurately pay PLAINTIFF and the other members of the  
CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which was in

1 excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 &  
2 1198, even though PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
3 CLASS were required to work, and did in fact work, overtime as to which DEFENDANT failed  
4 to accurately record and pay using the applicable overtime rate as evidenced by DEFENDANT'S  
5 business records and witnessed by employees.

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

11 81. DEFENDANTS knew or should have known that PLAINTIFF and the other  
12 members of the CALIFORNIA LABOR SUB-CLASS are under compensated for their overtime  
13 worked. DEFENDANTS systematically elected, either through intentional malfeasance or gross  
14 nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice  
15 and procedure, and DEFENDANTS perpetrated this systematic scheme by refusing to pay  
16 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS the applicable  
overtime rate.

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

25 83. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
26 therefore request recovery of all unpaid wages, including overtime wages, according to proof,  
27 interest, statutory costs, as well as the assessment of any statutory penalties against  
28 DEFENDANTS, in a sum as provided by the California Labor Code and/or other applicable  
statutes. To the extent overtime compensation is determined to be owed to the CALIFORNIA

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

7 **FOURTH CAUSE OF ACTION**

8 **FAILURE TO PROVIDE REQUIRED MEAL PERIODS**

9 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

14 85. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to provide all  
15 the legally required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA LABOR  
16 SUB-CLASS Members as required by the applicable Wage Order and Labor Code. The nature of  
17 the work performed by PLAINTIFF and CALIFORNIA LABOR SUB-CLASS MEMBERS did  
18 not prevent these employees from being relieved of all of their duties for the legally required off-  
19 duty meal periods. As a result of their rigorous work schedules, PLAINTIFF and other  
20 CALIFORNIA LABOR SUB-CLASS Members were often not fully relieved of duty by  
21 DEFENDANTS for their meal periods. Additionally, DEFENDANTS' failure to provide  
22 PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members with legally required meal  
23 breaks prior to their fifth (5th) hour of work is evidenced by DEFENDANTS' business records.  
24 As a result, PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS  
25 therefore forfeited meal breaks without additional compensation and in accordance with  
26 DEFENDANTS' strict corporate policy and practice.

27 86. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable  
28 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-

1 CLASS Members who were not provided a meal period, in accordance with the applicable Wage  
2 Order, one additional hour of compensation at each employee's regular rate of pay for each  
3 workday that a meal period was not provided.

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

7 **FIFTH CAUSE OF ACTION**

8 **FAILURE TO PROVIDE REQUIRED REST PERIODS**

9 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

15 89. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were  
16 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.  
17 Further, these employees were denied their first rest periods of at least ten (10) minutes for some  
18 shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10)  
19 minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and  
20 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more.  
21 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were also not provided  
22 with one hour wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF  
23 and other CALIFORNIA LABOR SUB-CLASS Members were periodically denied their proper  
24 rest periods by DEFENDANTS and DEFENDANTS' managers. When DEFENDANTS provided  
25 PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members with rest break, they  
26 required PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members to stay on  
27 DEFENDANTS' premises for those rest breaks.

28 90. DEFENDANTS further violated California Labor Code §§ 226.7 and the  
applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR  
SUB-CLASS Members who were not provided a rest period, in accordance with the applicable

1 Wage Order, one additional hour of compensation at each employee’s regular rate of pay for each  
2 workday that rest period was not provided.

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

6 **SIXTH CAUSE OF ACTION**

7 **FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS**

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

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

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

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

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

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

3 h. The name and address of the legal entity that is the employer; and

4 i. All applicable hourly rates in effect during the pay period and the corresponding  
5 number of hours worked at each hourly rate by the employee.

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

8 a. The total hours of compensable rest and recovery periods, the rate of  
9 compensation, and the gross wages paid for those periods during the  
10 pay period; and

11 b. The total hours of other nonproductive time, the rate of  
12 compensation, and the gross wages paid for that time during the pay  
13 period.

14 95. When DEFENDANTS did not accurately record PLAINTIFF’S and other  
15 CALIFORNIA CLASS Members’ wages, including overtime wages, owed, DEFENDANTS also  
16 failed to provide PLAINTIFF and the other members of the CALIFORNIA CLASS with complete  
17 and accurate wage statements which failed to show, among other things, the correct overtime rate,  
18 the correct number of hours worked, missed meal and rest periods, owed to PLAINTIFF and other  
19 CALIFORNIA CLASS Members. Cal. Lab. Code § 226 provides that every employer shall  
20 furnish each of his or her employees with an accurate itemized wage statement in writing showing,  
21 among other things, gross wages earned and all applicable hourly rates in effect during the pay  
22 period and the corresponding amount of time worked at each hourly rate. Aside from the  
23 violations listed above in this paragraph, DEFENDANTS failed to issue to PLAINTIFF an  
24 itemized wage statement that lists all the requirements under California Labor Code 226 *et seq.*  
25 Specifically, DEFENDANTS violated Cal. Lab. Code Sections 226(a)(9) by issuing itemized  
26 wage statements with the incorrect number of total hours worked. As a result, from time to time  
27 DEFENDANTS provided PLAINTIFF and the other members of the CALIFORNIA CLASS with  
28 wage statements which violated Cal. Lab. Code § 226.



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

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

12 102. Cal. Lab. Code § 203 provides:

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

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

24 **PRAYER FOR RELIEF**

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

27 1. On behalf of the CALIFORNIA CLASS:

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

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CALIFORNIA CLASS; and

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

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

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

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

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

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

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

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