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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF LOS ANGELES**

16 ROBERT LEE, on behalf of himself and all
17 others similarly situated,

18 Plaintiff,

19 v.

20 FISKER GROUP INC., a California
21 Corporation; and DOES 1–50, inclusive,

22 Defendants.

CASE NO.: **24STCV10482**

CLASS ACTION COMPLAINT

1. Minimum Wage Violations;
2. Overtime Wage Violations;
3. Meal Period Violations;
4. Rest Period Violations;
5. Illegal Deductions from Wages;
6. Improper Wage Statements;
7. Failure to Pay Wages Upon Separation;
8. Failure to Reimburse Business Expenses and Losses (Cal. Labor Code §§ 2800, *et seq.*);
9. Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200, *et seq.*; and
10. Violation of California WARN Act

1 Plaintiff ROBERT LEE (hereinafter “LEE” or “Plaintiff”) individually and on behalf of all others
2 similarly situated, bring this civil class action against Defendant FISHER GROUP, INC., a California
3 Corporation (“Fisher”) and DOES 1–50 (collectively, “Defendants”), demanding trial by jury,
4 complaining on information and belief as follows.

5 1. This class action is brought pursuant to Labor Code §§ 201, 202, 203, 204, 221, 223, 224,
6 226, 226.2, 226.3, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198, 2800 et seq. and Industrial Welfare
7 Commission Wage order 4-2001, §3(A), Industrial Welfare Commission Wage order 4-2001, § 11. This
8 class action also alleges violations of the WARN Act.

9 2. This Complaint challenges Defendants’ systemic illegal employment practices resulting
10 in violations of the stated provisions of the Labor Code against the identified group of employees.

11 3. Plaintiff is informed and believes and thereon alleges Defendants jointly and severally
12 acted intentionally and with deliberate indifference and conscious disregard to the rights of all employees.
13 This action is brought based on the Defendants’ wrongful actions and includes the following causes of
14 action: (1) Failure to Pay Minimum Wage; (2) Failure to Pay Overtime and Double Time; (3) Improper
15 Meal Periods; (4) Improper Rest Periods; (5) Improper Wage Statements; (6) Improper Deductions
16 Against Wages (7) Wages Not Paid Upon Separation; (8) Failure to Reimburse Expenses; (9) Unfair
17 Business Practices and (10) Violations of the California Warn Act.

18 4. Plaintiff petitions this Court to represent and prosecute claims against Defendants in class
19 action proceedings on behalf of all those similarly situated who are residents of the State of California.

20 **THE PARTIES**

21 5. At all material times, ROBERT LEE was/is a resident of the State of California. From
22 October 2023 to March 5, 2024, Fisher employed LEE. LEE worked from home in Fullerton, California.
23 Plaintiff brings this action on behalf of himself and all others similarly situated persons and in a
24 representative capacity under California Business and Professions Code sections 17200, *et seq.* and the
25 Labor Code.

26 6. At all material times, Fisher has been a California Corporation, headquartered in
27 Manhattan Beach, California, County of Los Angeles, conducting business throughout the State of
28 California, including Los Angeles County. Fisher was founded in 2016 and is based in Manhattan Beach,

1 CA. Fisker is an American automotive company founded by Danish automotive designer Henrik
2 Fisker and his wife Geeta Gupta-Fisker. Fisker is a design forward, digitally-focused company. Fisker's
3 mission is to create and sell the world's most emotional and sustainable vehicle, helping to build a clean
4 future for all.

5 7. The true names and capacities, whether individual, corporate, partnership, associate, or
6 otherwise of Defendants DOES 1–50, inclusive, are unknown to Plaintiff who sues these Defendants by
7 such fictitious names. (Cal. Code Civ. Proc. § 474.) Plaintiff will either seek leave to amend this
8 complaint or file a DOE statement to allege the true names and capacities of DOES 1–50, inclusive, when
9 the same are ascertained. The DOE Defendants together and Fisker are collectively referred to herein as
10 “Defendants” or “Fisker.”

11 8. Plaintiff is informed and believes, and thereon alleges that Defendants are responsible in
12 some manner for one or more of the events and happenings that proximately caused the injuries and
13 damages hereinafter alleged.

14 9. Plaintiff is informed and believes, and thereon alleges, that each of Defendants knowingly
15 and willfully acted in concert, conspired together, and agreed among themselves to enter into a
16 combination and systemized campaign of activity to cause the injuries and damages hereinafter alleged,
17 and to otherwise consciously and or recklessly act in derogation of Plaintiff's rights, and the trust reposed
18 by Plaintiff in each of said Defendants, said acts being negligently and or intentionally inflicted. Said
19 conspiracy, and Defendants' concerted actions, were such that, to Plaintiff's information and belief, and
20 to all appearances, Defendants represented a unified body so that the actions of one Defendant was
21 accomplished in concert with, and with knowledge, ratification, authorization, and approval of each and
22 every other Defendant.

23 10. Plaintiff is informed and believes, and thereon alleges, that each Defendant in this
24 complaint, is, and at all times mentioned was, the agent, servant, alter ego, and or joint employer along
25 with each of the other Defendants, and each Defendant acted within the course or scope of his, her, or its
26 authority as the agent, servant, and or employee of each other Defendant. Consequently, each and every
27 Defendant is jointly and severally liable to Plaintiff and Class Members for the damages incurred as a
28 proximate result of each Defendant's conduct.

1 **JURISDICTION AND VENUE**

2 11. This Court has jurisdiction over this action under the California Constitution, Article VI,
3 section 10, which grants the Superior Court, “Original Jurisdiction in all causes except those given by
4 statute to other courts.” The statutes under which Plaintiff brings this action do not specify any other
5 basis for jurisdiction.

6 12. This Court has jurisdiction over all Defendants because upon information and belief, each
7 is either a citizen of California, has sufficient minimum contacts in California, or otherwise intentionally
8 avails itself to the California market so as to render the exercise of jurisdiction over it by the California
9 courts consistent with traditional notions of fair play and substantial justice.

10 13. Venue as to each Defendant is proper in this judicial district under California Code of
11 Civil Procedure sections 395(a) and 395.5 because Defendants are headquartered, own, maintain offices,
12 run their operations, and have an agent or agents within the County of Los Angeles. Furthermore,
13 Defendants transact business within the County and some of the acts complained herein occurred in Los
14 Angeles.

15 **INTRODUCTION**

16 14. Plaintiff, upon information and belief and based upon such basis, alleges that Defendant
17 Fisker employed more than 100 non-exempt employees including vehicle administrators, sales
18 representatives, and sales advisors whose job entailed selling Fisker automobiles to the public and/or
19 clients.

20 15. Plaintiff alleges Class Members are non-exempt employees, who were not compensated
21 for minimum wage, overtime wages, were not afforded meal and rest breaks (or compensation in lieu
22 thereof), did not receive accurate wage statements, did not receive wages upon separation, were not
23 reimbursed for business expenses and/or lay-offed in violation of the WARN Act. (“other similarly
24 situated employees” “Class Members”).

25 16. Upon information and belief, to date, the Defendants’ illegal practices set forth herein this
26 complaint is present and continuing.

1 17. Plaintiff, upon information and belief and based upon such basis, alleges that Defendants
2 did not regularly provide Plaintiff and other similarly situated employees what they were legally entitled
3 to.

4 **FACTUAL ALLEGATIONS**

5 18. Defendants employed Plaintiff and all other similarly situated employees.

6 19. At all times set for herein, Defendants employed Plaintiff and all other similarly situated
7 employees throughout the state of California.

8 20. On information and belief, Plaintiff is informed and believes, and thereon alleges, that
9 Defendants are and were advised by skilled lawyers and other professionals, employees, and advisors with
10 knowledge of the requirements of California's wage and employment laws. Defendants had the authority
11 to hire and terminate Plaintiff and other similarly situated employees, to set work rules and conditions,
12 and to supervise their daily employment activities.

13 21. During the relevant time frame, Defendants compensated Plaintiff and some of the other
14 similarly situated employees with an hourly pay and often times with a commission and/or bonus. Plaintiff
15 and Class Members non-discretionary bonuses/commissions were not calculated into the regular rate of
16 pay.

17 22. During the relevant time frame, Plaintiff and some of the other similarly situated employees
18 worked well over eight (8) hours in a day and forty (40) hours in a workweek, and were frequently
19 compelled to work on weekends in addition to the workweek. Plaintiff and all similarly situated persons
20 worked in excess of eight (8) hours in a day or forty (40) hours per workweek. Defendants required
21 Plaintiff and the other similarly situated employees to work but did not pay Plaintiff and the other
22 similarly situated employees for all hours worked on any given day or in any given workweek.

23 23. During the relevant time frame, Plaintiff and other similarly situated employees frequently
24 worked a minimum of ten (10) hours in a single day and often times worked over twelve (12) or more
25 hours in a single day.

26 24. Upon information and belief, during the relevant time frame, Defendants maintained a
27 series of policies and practices that effectively coerced and pressured its non-exempt employees to work
28 of-the-clock, have their wages deducted, have their wages miscalculated, to shorten (tantamount to a

1 missed meal period) or forego meal and rest periods (or not be paid for their rest breaks), which also
2 occurred on weekends and to otherwise work beyond the hours that they were properly compensated for
3 by Defendants as a result of a complicated device used to calculate the overtime rate which was incorrect.
4 These policies and practices give rise to violations due to failure to pay overtime wages owed and failure
5 to pay premium wages, including, but not limited to failure to compensate for missed meal and rest breaks.

6 25. Upon information and belief, Plaintiff and all similarly situated persons worked in excess
7 of eight (8) hours in a day or forty (40) hours per workweek. On information and belief, Plaintiff did not
8 receive minimum wage when deductions and/or mandatory reimbursements were not made by or taken
9 into account by Defendants. Defendants required Plaintiff and the Class Members to work, but did not
10 pay Plaintiff and the Class Members for all hours worked on any given day or in any given workweek.
11 On information and belief, Plaintiff and the Class Members were regularly compelled to work off the
12 clock and Defendants created a policy to account for less hours than the total amount of hours actually
13 worked by Plaintiff and the Class Members in order to meet certain goals, to generate more sales. This
14 failure to properly compensate Plaintiff and the Class Members for overtime hours worked and
15 Defendants' failure to pay Plaintiff and other similarly situated employees the unpaid balance of premium
16 overtime compensation violates the provisions of California Labor Code sections 510 and 1194, as well
17 as IWC wage order 4-2001.

18 26. Upon information and belief, during the relevant time frame, Defendants maintained and
19 enforced an aggressive set of demands for these non-exempt employees with respect to the goals thereby
20 requiring Plaintiff and the Class Members to interrupt or shorten their lawful meal periods of thirty (30)
21 uninterrupted minutes while being relieved of all duty. Plaintiff and the Class Members were forced to
22 work in excess of five (5) hours per day on a regular basis without being provided a daily thirty (30)
23 minute restrictive-free meal period. During all relevant periods, Defendants illegally and unlawfully
24 required Plaintiff and the Class Members to work through meal periods. Wage orders required that
25 Plaintiff and the Class Members be compensated for the meal periods for which Defendants required
26 Plaintiff and Class Members to work. Defendants failed to compensate Plaintiff and the Class Members
27 for these meal periods worked on any given day or during any given workweek.

1 27. Upon information and belief, during the relevant time frame, Plaintiff and the Class
2 Members did not receive meal periods; in addition, Defendants' work demands and pressure from
3 Defendants' management, with specific knowledge and/or at the instruction of Defendants, as a result of
4 an implemented policy, regularly required Plaintiff and the Class Members to return to work before
5 completing (constitutes a missed meal period) an uninterrupted meal period of thirty (30) minutes.

6 28. Upon information and belief, during the relevant time frame, Plaintiff and the Class
7 Members often worked shifts in excess of then (10) hours, yet were never provided a second, uninterrupted
8 meal period of thirty (30) minutes for those shifts.

9 29. Despite the above-mentioned meal period violations, Defendants never compensated
10 Plaintiff, and Class Members additional hour of pay at their regular rate as required by California law
11 when meal and rest periods were not provided.

12 30. Upon information and belief, during the relevant time frame, Defendants maintained and
13 enforced a schedule and policies that due to business demands often required Plaintiff and the Class
14 Members to shorten (constitutes a missed rest break) or forego their lawful rest periods of ten (10) minutes
15 for every four (4) hours worked or major fraction thereof. During all relevant periods, Defendants illegally
16 and unlawfully required Plaintiff and the Class Members to work through rest periods. Wage orders
17 required that Plaintiff and the Class Members be compensated for the rest periods for which Defendants
18 required Plaintiff and Class Members to work. Defendants failed to compensate Plaintiff and the Class
19 Members for these rest periods worked on any given day or in any given workweek.

20 31. Despite the above-mentioned rest period violations, Defendants never compensated
21 Plaintiff and the Class Members one additional hour of pay at their regular rate as required by California
22 law for each day on which rest periods were not authorized or permitted.

23 32. Defendants failed to pay when due and on time, Plaintiff and the Class Members the legal
24 wages they earned or that were due, failed to provide all authorized meal and rest periods (or failed to pay
25 an hour at the regular rate for meal and rest breaks) owed to Plaintiff and the Class Members and failed
26 to pay one (1) hour wages in lieu of Defendants' failure to provide a meal and rest period, including at
27 such time when employee quit or was discharged. Defendants failed to offer Plaintiff and all other
28 similarly situated Class Members paper wage statements. The wage statements themselves lack

1 information required under the Labor Code. Defendants have made it difficult to account with precision
2 for the unlawfully deducted and/or withheld wages owed to Plaintiff and all other similarly situated
3 employees without an examination of all records during the liability period and failed to implement and
4 on information and belief failed to preserve a lawful record-keeping method to record all non-provided
5 meal and rest breaks owed to employees, as required for non-exempt employees by California Labor Code
6 section 226 and applicable California Wage Orders.

7 33. Plaintiff is informed and believes, and thereon alleges, that Defendants know, should know,
8 knew, and/or should have known that Plaintiff and the Class Members entitled to receive accurate wages
9 for regular and overtime work, and premium wages under Labor Code §226.7(b), but were not receiving
10 accurately calculated compensation.

11 34. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned,
12 Defendants knew that they had a duty to accurately compensate Plaintiff and the Class Members for all
13 hours worked including regular and overtime wages as well as meal and rest period premiums, and that
14 Defendants had the financial ability to pay such compensation, but willfully, knowingly, recklessly, and/or
15 intentionally failed to do so.

16 35. Defendants set up and enforced schedules, policies, and workload requirements whereby
17 Plaintiff and all other similarly situated Class Members reach certain sales quotas.

18 36. Defendants also set up and enforced schedules, policies, and workload requirements
19 wherein Plaintiff and Class Members were regularly not provided with a first uninterrupted meal period
20 of at least thirty (30) minutes during shifts of greater than five (5) hours, or a second uninterrupted meal
21 period of at least thirty (30) minutes during shifts greater than ten (10) hours. Plaintiff and all other
22 similarly situated Class Members were also regularly required to take an untimely first meal period, which
23 often commenced after the start of the sixth hour of a shift, which was also shortened (tantamount to a
24 missed meal period). Defendants also did not authorize and/or failed to pay Plaintiff and the Class
25 Members the regular rate for ten (10) minute rest periods for every four (4) hours worked or major fraction
26 thereof.

27 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
28 should have known that Defendants had to keep complete and accurate payroll records for Plaintiff and

1 the Class Members in accordance with California law, but, in fact, did not keep complete and accurate
2 payroll records. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
3 should have known that Plaintiff and the Class Members were entitled to reimbursement for necessary
4 business-related expenses. At all material times set forth herein, Defendants failed to reimburse Plaintiff
5 and the Class Members for necessary business-related expenses and costs including for at home office
6 expenses for such items such as internet, supplies, electricity, water, office space, etc. At all material times
7 set forth herein, Defendants failed to properly reimburse Plaintiff and the Class Members pursuant to
8 California law in order to increase Defendants' profits.

9 **CLASS ALLEGATIONS**

10 38. Plaintiff brings this class action under the provisions of California Code of Civil Procedure
11 section 382, and the procedural provisions of Rule 23 of the Federal Rules of Civil Procedure, which the
12 California Supreme Court has adopted for use by the trial courts of this State. Plaintiff brings this class
13 action on behalf of themselves, and all other others similarly situated, with Plaintiff proceeding as the
14 representative member of the proposed classes defined as follows:

15 All individuals who have been employed or are currently employed by Defendants, as
16 non-exempt employees dating back four years from the filing of this Complaint to the
17 present date. Excluded from the Class are the Defendants in this action, any entity in which
18 the Defendants have a controlling interest, any officers, directors, and shareholders of the
19 Defendants, and any legal representatives, heirs, successors, and assigns of the
20 Defendants. ("Plaintiff Class")
21

22 Plaintiff also seeks certification of the following subclasses:

- 23 A. All current and former employees of Defendants, who were assigned to work from home
24 within the State of California who incurred necessary expenditures or losses in direct
25 consequence of the discharge of his or her duties performing work for Defendants, at any time
26 from four years prior to the filing of this lawsuit to the present.
27 ("Reimbursement Subclass")
- 26 B. All former employees of Defendants, who did not receive timely wages at any time from
27 four years prior to the filing of this lawsuit to the present.
28 ("Separation Subclass")
- 28 C. All former California-based employees of Defendants, who were lay-offed on or about March
5, 2024 and did not receive the 60-day notice required under the Warn Act.

1 (“Warn Act Subclass”)

2 (collectively hereinafter referred to as “Class Members”)

3 39. Plaintiff reserves the right, under Rule 3.765 of the California Rules of Court, to amend
4 or modify the Class Members description with greater specificity or further division into subclasses or
5 limitation to particular issues. Plaintiff, together with members of Plaintiff Class and Reimbursement
6 Subclass are collectively referred to as “Class Members.”

7 40. Plaintiff brings this action, which may properly be maintained as a class action, under the
8 provisions of California Code of Civil Procedure section 382, because there is a well-defined community
9 of interest in the litigation and the proposed class is easily ascertainable as well as for the other reasons
10 explained in this Complaint.

11 41. There is a well-defined community of interest in this litigation and the Class is easily
12 ascertainable:

13 a. Numerosity: The members of the Class are so numerous that joinder of all
14 members would be unfeasible and impractical. The membership of the Class is
15 unknown to Plaintiff at this time. However, the Class is estimated to be greater
16 than fifty (50) individuals and the identity of such membership is readily
17 ascertainable by inspection of Defendants’ employment records.

18 b. Typicality: Plaintiff is qualified to and will fairly and adequately protect the
19 interests of each Class Member with whom they have a well-defined
20 community of interest, and Plaintiff’s claims (or defenses, if any), are typical
21 of all Class Members as demonstrated herein.

22 c. Adequacy: Plaintiff is qualified to, and will fairly and adequately protect the
23 interests of each Class Member with whom they have a well-defined
24 community of interest and typicality of claims, as alleged herein. Plaintiff
25 acknowledges that they have an obligation to the Court to make known any
26 relationship, conflict, or differences with any Class Member. Plaintiff’
27 attorneys and proposed Class counsel are well-versed in the rules governing
28 class action discovery, certification, and settlement. Plaintiff has incurred, and,

1 throughout the duration of this action, will continue to incur costs and attorneys'
2 fees that have been, are, and will be necessarily expended for the prosecution
3 of this action for the substantial benefit of each Class Member.

- 4 d. Superiority: The nature of this action makes the use of class action adjudication
5 superior to other methods. Class action will achieve economies of time, effort,
6 and expense as compared with separate lawsuits, and will avoid inconsistent
7 outcomes because the same issues can be adjudicated in the same manner and
8 at the same time for the entire class.

9 42. There are common questions of law and fact as to the Class that predominate over
10 questions affecting only individual members, including but not limited to:

- 11 a. Whether Defendants failed to pay Plaintiff and Class minimum wage and
12 overtime;
- 13 b. Whether Defendants failed to pay minimum wage;
- 14 c. Whether Defendants' failure to pay wages, without abatement or reduction,
15 in accordance with the California Labor Code, was willful;
- 16 d. Whether Defendants complied with wage reporting as required by the
17 California Labor Code; including but not limited to Section 226;
- 18 e. Whether Defendants had a policy or practice of not providing meal periods to
19 its non-exempt employees or providing compensation for missed meal periods;
- 20 f. Whether Defendants had a policy or practice of not providing meal periods to
21 its account executives or providing compensation for missed meal periods;
- 22 g. Whether Defendants engaged in unlawful wage deductions;
- 23 h. Whether Defendants had a policy or practice of not paying or providing rest
24 periods to its non-exempt employees compensation for missed rest periods;
- 25 i. Whether Defendants had a policy or practice of not providing rest periods to its
26 account executives compensation for missed rest periods;
- 27 j. Whether Defendants reimbursed business expenses;
- 28 k. Whether Defendants provided itemized accurate wage statements;

1 47. California Labor Code sections 1194, 1197, and 1197.1 provide that minimum wage must
2 be paid to employees in the state of California and the any lesser wage is a violation.

3 48. Defendants failed to pay Plaintiff and Class Members minimum wage at the rates required
4 by the state of California.

5 49. Defendants' failure to pay Plaintiff and the Class Members the minimum wage required
6 violates California Labor Code sections 1194, 1197, and 1197.1. Defendants failed to track all hours
7 worked including hours worked by Plaintiff and the Class Members. Plaintiff and Class Members are
8 entitled to recover the balance of any minimum wage compensation.

9 **SECOND CAUSE OF ACTION**

10 **Violation of Labor Code sections 510, 1198 & Industrial Welfare Commission Wage Order 4-**

11 **2001, §3(A) – Unpaid Overtime and Double Time**

12 *(Plaintiff and Class Members against all Defendants)*

13 50. Plaintiff incorporates by reference and re-alleges, as if fully stated herein, the material
14 allegations, as set forth in paragraphs 1 through 49 of this Complaint.

15 51. At all times herein set forth, California Labor Code section 218 authorizes employees to
16 sue directly for any wages or penalties due to them under this article of the California Labor Code.

17 52. At all times herein set forth, California Labor Code section 1198 provides that it is
18 unlawful to employ persons for longer than the hours set by the Industrial Welfare Commission
19 (hereinafter "IWC").

20 53. At all times herein set forth, IWC Wage Order section 4-2001(3)(A), which is applicable
21 to Plaintiff and the Class Members' employment by Defendants, has provided that employees working
22 for more than eight (8) hours in one (1) day, and/or more than forty (40) hours in one (1) workweek, are
23 entitled to payment at the rate of one-and-one-half (1 ½) his or her regular rate of pay for all hours worked
24 in excess of eight (8) hours in one (1) day or more than forty (40) hours in one (1) work week. An
25 employee who works more than twelve (12) hours in one (1) day is entitled to overtime compensation at
26 a rate of twice his or her regular rate of pay. During this liability period, Plaintiff and other similarly
27 situated employees received commissions as well as an hourly rate. Plaintiff and the Class Members
28 worked in excess of forty (40) hours per workweek for each workweek while employed by Defendants

1 throughout the course of employment with Defendants, subject to any workweeks wherein Plaintiff and
2 the Class Members missed workdays as a result of sick days, personal emergencies, or anything else that
3 would otherwise interfere with workweek schedules. Defendants required Plaintiff and the Class
4 Members to work but did not pay Plaintiff and the Class Members for all hours worked on any given
5 day or in any of the given workweeks herein mentioned through commissions, off the clock or as a
6 result of Defendants manipulating its time records. Defendants failed to compensate pay Plaintiff and
7 the Class Members for work performed in excess of eight (8) hours a day or forty (40) hours per workweek
8 while employed by Defendants, which occurred throughout pay Plaintiff and the Class Members course
9 of employment with Defendants.

10 54. California Labor Code section 510 codifies the right to overtime compensation at one-and-
11 one-half (1 ½) the regular hourly rate for hours worked in excess of eight (8) hours in one (1) day or forty
12 (40) hours in one (1) week or for the first eight (8) hours worked on the seventh day of work, and at twice
13 the regular hourly rate for hours worked in excess of twelve (12) hours in one (1) day or in excess of eight
14 (8) hours on the seventh day of work.

15 55. During the relevant time period, more specifically, three years dating back from the filing
16 of this Complaint, Plaintiff and the Class Members worked in excess of eight (8) hours in one (1) work
17 day and forty (40) hours in one (1) work week. During the relevant time period, more specifically, dating
18 back three years from the filing of this Complaint, Plaintiff and the Class Members frequently worked in
19 excess of ten (10) hours and often times worked in excess of twelve (12) hours in one (1) work day.

20 56. During the relevant time period, Defendants failed to pay all premium overtime wages.
21 Defendants failed to track all hours worked including overtime hours and failed to include bonuses and
22 commissions into the regular rate thereby shortchanging Plaintiff and the Class Members all wages owed.
23 Defendants failed to pay double time wages owed to Plaintiff and the Class Members for worked
24 performed in excess of twelve (12) hours.

25 57. Defendants' failure to pay Plaintiff and the Class Members the unpaid balance of premium
26 overtime compensation, as required by California state law, violates the provisions of Labor Code section
27 510 and is therefore unlawful.

1 58. Defendants' failure to pay Plaintiff and the Class Members the unpaid balance of premium
2 overtime compensation, as required by California state law, violates the provisions of Labor Code section
3 510 and 1198 and is therefore unlawful.

4 59. Pursuant to Labor Code section 1194, Plaintiff and Class Members are entitled to recover
5 unpaid overtime compensation, as well as interest, costs, and attorney's fees.

6 **THIRD CAUSE OF ACTION**

7 **Violation of Labor Code sections 226.7, 512(a), and Industrial Welfare Commission Wage Order**

8 **4-2001, § 11 – Improper Meal Periods**

9 *(Plaintiff and Class Members against all Defendants)*

10 60. Plaintiff incorporates by reference and re-alleges, as if fully stated herein, the material
11 allegations, as set forth in paragraphs 1 through 69 of this Complaint.

12 61. At all times herein, Labor Code section 226.7(a) provides that no employer shall require
13 an employee to work during any meal period mandated by an applicable order of the IWC.

14 62. At all times herein, Labor Code section 512(a) provides that an employer may not employ
15 an employee for a work period of more than five (5) hours per day without providing the employee with
16 a meal period of not less than thirty (30) minutes, except that if the total work period per day of the
17 employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the
18 employer and the employee.

19 63. The language of IWC Order No. 4-2001 § 11(B) relating to meal periods tracks the
20 language of the California Labor Code.

21 64. During the relevant time period, Plaintiff and all other similarly situated employees, who
22 were scheduled to work in excess of five (5) hours, but not longer than six (6) hours, and who did not
23 waive their legally-mandated meal periods by mutual consent, were required to work in excess of five (5)
24 hours without receiving a meal period of not less than thirty (30) minutes. During the relevant time period,
25 Plaintiff and all other similarly situated employees, who were scheduled to work for a period of time in
26 excess of six (6) hours, were required to work in excess of five (5) hours, without receiving a meal period
27 of not less than thirty (30) minutes. An employer may not employ an employee for a work period of more
28 than ten (10) hours per day without providing the employee with a second meal period of not less than

1 thirty (30) minutes, except that if the total hours worked is no more than twelve (12) hours, the second
2 meal period may be waived by mutual consent of the employer and the employee only if the first meal
3 period was not waived.

4 65. Plaintiff and the Class Members were forced to work in excess of five (5) hours per day
5 on a regular basis without being provided a daily thirty (30) minute restrictive-free meal period. Plaintiff
6 and the Class Members did not receive meal periods; in addition, Defendants' work demands and pressure
7 from Defendants' management, with specific knowledge and/or at the instruction of Defendants, as a
8 result of an implemented policy, regularly required Plaintiff and the Class Members to return to work
9 before completing (constitutes a missed meal period) an uninterrupted meal period of thirty (30) minutes.
10 Upon information and belief, during the relevant time frame, Plaintiff and the Class Members often
11 worked shifts in excess of then (10) hours, yet were never provided a second, uninterrupted meal period
12 of thirty (30) minutes for those shifts. During all relevant periods, Defendants illegally and unlawfully
13 required Plaintiff and the Class Members to work through meal periods. Wage orders required that
14 Plaintiff and the Class Members be compensated for the meal periods for which Defendants required
15 Plaintiff and Class Members to work. Defendants did not provide Plaintiff and Class Members with a meal
16 break(s) during each workweek throughout the course of employment with Defendants. Defendants failed
17 to compensate Plaintiff and the Class Members for these meal periods worked on any given day or during
18 any given workweek. Despite the above-mentioned meal period violations, Defendants never
19 compensated Plaintiff and the Class Members on additional hour of pay at their regular rate as required
20 by California law when meal periods were not provided.

21 66. Pursuant to Labor Code section 226.7(b) and Industrial Welfare Commission Wage Order
22 4-2001, section 11(B), Plaintiff and Class Members are entitled to recover from Defendants one (1)
23 additional hour of pay at the employee's regular rate of compensation for each work day that a meal period
24 was not provided, for a three-year statutory period dating back from the date of the commencement of this
25 action.

26 **FOURTH CAUSE OF ACTION**

27 **Violation of Labor Code section 226.7(a) – Improper Rest Periods**

28 *(Plaintiff and Class Members against all Defendants)*

1 Plaintiff incorporates by reference and re-alleges, as if fully stated herein, the material allegations,
2 as set forth in paragraphs 1 through 66 of this Complaint.

3 67. At all times herein, Labor Code section 218 authorizes employees to sue directly for any
4 wages or penalty due to them under this article of the California Labor Code. Labor Code section
5 226.7(a) provides that no employer shall require an employee to work during any rest period mandated
6 by an applicable order of the IWC.

7 68. IWC Order No. 4-2001 § 12, which covers rest periods, provides “[e]very employer shall
8 authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle
9 of each work period. The authorized rest period time shall be based on the total hours worked daily at the
10 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period
11 need not be authorized for employees whose total daily work time is less than three and one-half (3½)
12 hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction
13 from wages.” Plaintiff allege that Defendants did not provide Plaintiff and the Class Members proper
14 uninterrupted rest periods that they were legally entitled to. Upon information and belief, during the
15 relevant time frame, Defendants maintained and enforced a schedule and policies that due to business
16 demands often required Plaintiff and the Class Members to shorten (constitutes a missed rest break) or
17 forego their lawful rest periods of ten (10) minutes for every four (4) hours worked or major fraction
18 thereof. Defendants instituted a company-wide policy that demanded Plaintiff and the Class Members
19 to work through their rest periods. Defendants illegally and unlawfully required Plaintiff and members
20 of the Class to work through rest periods. Wage orders required that Plaintiff and the Class Members be
21 compensated for the rest periods for which Defendants required Plaintiff and the Class Members to
22 work. Defendants did not provide Plaintiff and the Class Members with a rest break(s) during each
23 workweek throughout the course of employment with Defendants. Defendants failed to compensate
24 Plaintiff and the Class Members for these rest periods worked on any given day or in any given
25 workweek by either forcing them to miss their rest breaks or failing to pay Plaintiff and the Class
26 Members the time during their rest breaks.

27 69. “[A]ll hours must be paid at the statutory or agreed rate and no part of this rate may be
28 used as a credit against a minimum wage obligation.” (Armenta v. Osmose, Inc. (2005) 135 Cal.App.4th

1 314, 324.) “Under the California minimum wage law, employees must be compensated for each hour
2 worked at either the legal minimum wage or the contractual hourly rate, and compliance cannot be
3 determined by averaging hourly compensation.” (*Bluford v. Safeway Stores, Inc.* (2013) 216 Cal.App.4th
4 864, 872 (emphasis added); see also *Sheppard v. North Orange County Regional Occupational Program*
5 (2010) 191 Cal.App.4th 289, 297 n.5 (“Compliance with the minimum wage law is determined by
6 analyzing the compensation paid for each hour worked; averaging hourly compensation is not permitted
7 under California law.”) (emphasis added).) “[A]ny employee receiving less than the legal minimum
8 wage ... is entitled to recover in a civil action the unpaid balance of the full amount of this minimum
9 wage” (Cal. Lab. Code § 1194(a).) “[A]ll hours must be paid at the statutory or agreed rate and no
10 part of this rate may be used as a credit against a minimum wage obligation.” (*Armenta v. Osmose, Inc.*
11 (2005) 135 Cal.App.4th 314, 324.) “An employer is required to authorize and permit the amount of rest
12 break time called for under the wage order for its industry.” (Brinker, 53 Cal.4th at 1033; see also
13 *Faulkinbury v. Boyd & Associates, Inc.* (2013) 216 Cal.App.4th 220, 236 (“An employer has a duty to
14 authorize and permit rest breaks.”).) “No employer shall require any employee to work during any ...
15 rest period mandated by an applicable order of the Industrial Welfare Commission.” (Cal. Labor Code §
16 226.7(a).) “Under Industrial Welfare Commission wage orders, employers are required to ‘authorize and
17 permit all employees to take rest periods’ at the rate of at least 10 minutes for every four hours worked.”
18 (Bluford, 216 Cal.App.4th at 871 (quoting 8 C.C.R. § 11070, § 12); see also *Murphy v. Kenneth Cole*
19 *Productions, Inc.* (2007) 40 Cal.4th 1094, 1104 (Employees are entitled to “a paid 10–minute rest period
20 per four hours of work.”).) “The wage order’s requirement not to deduct wages for rest periods presumes
21 [employees] are paid for their rest periods.” (Bluford, 216 Cal.App.4th at 871.) “Rest periods are
22 considered hours worked and must be compensated.” (Id. at 872.). Also see, *Vaquero v. Stoneledge*
23 *Furniture LLC* (2017) 9 Cal.App.5th 98; also see, LC 226.7. Defendants failed to compensate Plaintiff
24 and non-exempt employees by deducting commissions from their hourly pay.

25 70. Pursuant to Labor Code section 226.7(b) and Code of Civil Procedure section 338,
26 Plaintiff and Class Members are entitled to recover from Defendants one (1) additional hour of pay at the
27 employee's ‘regular rate’ of compensation for each rest period (a) that was not authorized and permitted,
28 and/or (b) that was not paid time for a three-year statutory period dating back from the date of the

1 commencement of this action. Plaintiff and the Class Members were systematically not permitted and/or
2 authorized and/or paid to take one (1) ten (10) minute rest period (off duty for ten consecutive minutes)
3 for every four (4) hours worked or major fraction thereof, which is a violation of the Labor Code and
4 IWC wage order 4-2001, section 12. Plaintiff and the Class Members were not compensated for rest
5 breaks and were not paid for rest break time. Defendants willfully violated the provisions of Labor Code
6 sections 226.7, 512 and IWC Wage Order No. 4-2001.

7 71. Defendants' conduct, as alleged herein, violates Labor Code section 226.7(a) and 226.2,
8 which authorizes that no employer shall require any employee to work during any meal or rest period
9 mandated by an applicable order of the IWC.

10 72. Pursuant to Labor Code section 226.7(b) and Code of Civil Procedure section 338,
11 Plaintiff and Class Members are entitled to recover from Defendants one (1) additional hour of pay at the
12 employee's regular rate of compensation for each work day that a rest period was not provided, for a
13 three-year statutory period dating back from the date of the commencement of this action. Plaintiff and
14 the Class Members systematically not permitted or authorized to take one (1) ten (10) minute rest period
15 for every four (4) hours worked or major fraction thereof, which is a violation of the Labor Code and
16 IWC wage order 4-2001, section 12. On shifts where Plaintiff worked in excess of three and half hours,
17 they were routinely not permitted and authorized to take lawful rest periods. Plaintiff and the Class
18 Members were not compensated with one hour of wages for every day in which a rest period was missed
19 or untimely as a result of Defendants' policies, practices, or work demands. By failing to authorize and
20 permit a ten-minute rest period for every four (4) hours or major fraction thereof worked per day by its
21 non-exempt employees, and by failing to provide compensation for such non-provided or shortened rest
22 periods, as alleged above, Defendants willfully violated the provisions of Labor Code sections 226.7, 512
23 and IWC Wage Order No. 4-2001.

24 **FIFTH CAUSE OF ACTION**

25 **Violation of Labor Code section 223 – Unlawful Deductions**

26 *(Plaintiff and Class Members against all Defendants)*

27 73. Plaintiff incorporates by reference and re-alleges, as if fully stated herein, the material
28 allegations set forth in paragraphs 1 through 72.

1 74. Labor Code §204 provides that all earned wages are due and payable twice during each
2 calendar month. Labor Code §221 provides that it shall be unlawful for any employer to collect or receive
3 from an employee any part of wages theretofore paid by said employer to said employee. Defendants
4 unlawfully deducted wages from Plaintiff and the Class Members. Defendants created a system whereby
5 Plaintiff and the Class Members were not paid meal and rest break premiums and had their stock options
6 illegal taken from them, and therefore, suffered unlawful deductions. Labor Code §223 provides that
7 where a contract requires an employer to maintain the designated scale, it is unlawful to pay a lower wage
8 while purporting to pay the wage designed by the contract. Labor Code §224 prohibits employers from
9 making deductions from an employee's wages not authorized by the employee in writing or permitted by
10 law. Labor Code §2751 provides that: Whenever an employer enters into a contract of employment with
11 an employee for services to be rendered within this state and the contemplated method of payment of the
12 employee involves commissions, the contract shall be in writing and shall set forth the method by which
13 the commissions shall be computed and paid.

14 75. Under California law, an employer can lawfully withhold amounts from an employee's
15 wages only in the following circumstances:

- 16 a) When required or empowered to do so by state or federal law;
- 17 b) When a deduction is expressly authorized in writing by the employee to cover
18 insurance premiums, benefit plan contributions or other deductions not amounting to a
19 rebate on the employee's wages; and
- 20 c) When a deduction to cover health, welfare or pension contributions is expressly
21 authorized by a wage or collective bargaining agreement (Labor Code Sections 221 and
22 224).

23 76. None of the exceptions outlined by the Labor Code apply to Plaintiff and the Class
24 Members. Defendants' failure to pay premiums to Plaintiff and the Class Members constitutes an
25 unlawful deduction. Defendants have maintained a policy of failing to inform Plaintiff and the Class
26 Members of the illegal deductions and have willfully failed to compensate Plaintiff and class members
27 for illegal deductions.

1 77. Plaintiff and all similarly situated employees are entitled to compensation for the illegal
2 deductions from Defendants i.e., meal and rest break premium compensation, damages, and waiting time
3 penalties associated with the deductions and according to proof at trial.

4 **SIXTH CAUSE OF ACTION**

5 **Violation of Labor Code section 226(a) – Improper Wage Statements**

6 *(Plaintiff and Class Members against all Defendants)*

7 78. Plaintiff incorporate by reference and re-allege, as if fully stated herein, the material
8 allegations set forth in paragraphs 1 through 77 of this Complaint.

9 79. Labor Code section 226(a) mandates that employers provide their employees, along with
10 the employees’ paychecks, “an accurate itemized statement in writing showing (1) gross wages earned,
11 (2) total hours worked by the employee, except for any employee whose compensation is solely based
12 on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any
13 applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any
14 applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all
15 deductions made on written orders of the employee may be aggregated and shown as one item, (5) net
16 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
17 employee and his or her social security number, except that by January 1, 2008, only the last four digits
18 of his or her social security number or an employee identification number other than a social security
19 number may be shown on the itemized statement, (8) the name and address of the legal entity that is the
20 employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number
21 of hours worked at each hourly rate by the employee.”

22 80. Plaintiff, on information and belief and based upon such basis, alleges that Plaintiff and
23 the Class Members were intentionally not provided accurate wage statements, pursuant to Labor Code
24 section 226(a) by Defendants, because it was Defendants’ intent to avoid paying Plaintiff and all other
25 similarly situated Class Members, the correct wages that Plaintiff and the Class Members legally entitled
26 to in order for Defendants to generate greater profits at the expenses of Plaintiff and all similarly situated
27 Class Members.

1 81. Defendants also violated California Labor Code section 226, which requires wage
2 statements to list “all applicable hourly rates in effect during the pay period and the corresponding number
3 of hours worked at each hourly rate by the employee.” Defendants have knowingly and intentionally
4 failed to comply with Labor Code § 226(a) on wage statements which should have been properly provided
5 to Plaintiff and all other similarly situated Class Members, and such violations flow from Defendants’
6 improper policies and practices, their implementation and enforcement by Defendants, and the violations
7 alleged in the preceding causes of action and herein. More specifically, rates, hours worked, the
8 miscalculation of the overtime rate based on the commission rate and hourly rate, off-the-clock hours
9 worked, and premium wage payments for missed meal and rest breaks should have been itemized on the
10 wage statements issued by Defendants to Plaintiff and the Class Members and constitutes a violation of
11 California Labor Code section 226. In addition, Defendants failed to provide Plaintiff and the Class
12 Members with the option to receive paper wage statements. Defendants’ intentional conduct by failing
13 to provide Plaintiff and the Class Members with accurate wage statements have caused Plaintiff and
14 Class Members to suffer injury in fact by depriving them of their wage records. In order to determine if
15 they had been paid the correct amount and rate for all hours worked, Plaintiff and all other similarly
16 situated Class Members have been, would have been, and are compelled to discover for accuracy, the
17 required information missing from their wage statements and to perform calculations in light of the
18 inaccuracies and incompleteness of the wage statements Defendants provided to them. Given the
19 violations addressed above and the resulting inaccuracies in the wage statements provided by Defendants
20 to Plaintiff and all other similarly situated Class Members, Defendants have made it very difficult, to
21 determine from the wage statements themselves such important items of information as the appropriate
22 pay rate to apply to their hours worked. Defendants’ Labor Code section 226 violations further injured
23 the employees by rendering them unaware of the full compensation to which there were entitled under
24 applicable provisions of the California Labor Code and applicable IWC Wage Orders, and Defendants’
25 employees have been accordingly rendered unaware of how to calculate such compensation. Pursuant to
26 California Labor Code §226(c), Plaintiff issued a written request to copy, inspect, and/or receive copies
27 of Plaintiff employment file, including, but not limited to all documents supporting employment with
28 Defendants, however Defendants intentionally failed to respond to the request.

1 82. Plaintiff, on information and belief and based upon such basis, alleges that Plaintiff and
2 the Class Members are entitled to recover from Defendants the greater of their actual damages caused
3 by Defendants’ failure to comply with Labor Code Section 226(a) or an aggregate penalty not exceeding
4 \$4,000, and an award of costs and reasonable attorneys' fees pursuant to Labor Code Section 226(e).

5 **SEVENTH CAUSE OF ACTION**

6 **Violation of Labor Code sections 201-203 – Wages Not Paid Upon Separation**

7 *(Plaintiff and Separation Class Members, against all Defendants)*

8 83. Plaintiff incorporates by reference and re-alleges, as if fully stated herein, the material
9 allegations set forth in paragraphs 1 through 82 of this Complaint.

10 84. At all times herein set forth, Labor Code section 218 authorizes employees to sue directly
11 for any wages or penalties due to them under this article of the California Labor Code.

12 85. At all times herein set forth, Labor Code sections 201-203 provide that if an employer
13 discharges an employee, the wages earned and unpaid at the time of discharge are due and payable
14 immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall
15 become due and payable not later than seventy-two (72) hours thereafter; unless the employee has given
16 seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is
17 entitled to his or her wages at the time of quitting.

18 86. During the relevant time period, Defendants failed to pay Plaintiff and the Class Members
19 who are no longer employed by Defendants, all their wages, earned and unpaid, either at the time of
20 discharge, or within seventy-two (72) hours of their leaving Defendants’ employ.

21 87. Defendants also willfully violated Labor Code sections 201-203 by failing to provide all
22 owed wages at separation from employment. Labor Code sections 201 and 202 require Defendants to
23 pay their employees all wages due either at the time of firing or within seventy-two (72) hours of
24 voluntary separation, if not sooner. Section 203 of the Labor Code provides that if an employer willfully
25 fails to timely pay such wages, the employer must, as a penalty, continue to pay the subject employee’s
26 wages until the back wages are paid in full or an action is commenced. The penalty cannot exceed thirty
27 (30) days of wages. Plaintiff and the Class Members who were separated from employment are entitled
28 to compensation for all forms of wages earned, including but not limited to unpaid overtime

1 compensation and premium payments for non-provided meal and rest periods, but to date have not
2 received such compensation, and are therefore entitled to wages.

3 88. Defendants' failure to pay Plaintiff and the Class Members, who are no longer employed
4 by Defendants, all wages earned at the time of their discharge, or within seventy-two (72) hours of their
5 leaving Defendant's employ, is in violation of Labor Code sections 201-203.

6 89. Labor Code section 203 provides that if an employer willfully fails to pay wages owed, in
7 accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty from
8 the due date, and at the same rate until paid or until an action is commenced; but the wages shall not
9 continue for more than thirty (30) days. Plaintiff and Class Members who are no longer employed by
10 Defendants, are entitled to recover from Defendants the statutory penalty for each day they were not paid
11 at their regular hourly rate of pay, up to a thirty (30) day maximum, pursuant to Labor Code section 203.

12 **EIGHTH CAUSE OF ACTION**

13 **Violation of California Labor Code section 2800, et seq.**

14 *(Plaintiff and Reimbursement Class against all Defendants)*

15 Plaintiff incorporates by reference and re-alleges, as if fully stated herein, the material allegations
16 set forth in paragraphs 1 through 89.

17 90. Plaintiff and Reimbursement Class Members allege this cause of action against
18 Defendants.

19 91. "An employer shall in all cases indemnify his employee for losses caused by the
20 employer's want of ordinary care." (Cal. Labor Code § 2800.)

21 92. "An employer shall indemnify his or her employee for all necessary expenditures or losses
22 incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her
23 obedience to the directions of the employer, even though unlawful, unless the employee, at the time of
24 obeying the directions, believed them to be unlawful." (Cal. Labor Code § 2802(a).)

25 93. "All awards made by a court or by the Division of Labor Standards Enforcement for
26 reimbursement of necessary expenditures under this section shall carry interest at the same rate as
27 judgments in civil actions. Interest shall accrue from the date on which the employee incurred the
28 necessary expenditure or loss." (Cal. Labor Code § 2802(b).)

1 94. California Labor Code section 2802(c) provides: “For purposes of this section, the term
2 “necessary expenditures or losses” shall include all reasonable costs, including, but not limited to,
3 attorney’s fees incurred by the employee enforcing the rights granted by this section.”

4 95. Defendants owe a duty to Plaintiff and the Reimbursement Class Members to indemnify
5 them for all necessary expenditures, losses, and damages suffered and incurred in direct consequence of
6 the discharge of their duties, or of their obedience to the directions of their employer. Defendants continue
7 to refuse to reimburse and indemnify Plaintiff and the Reimbursement Class Members for all necessary
8 expenditures and losses incurred by them, including but not limited cell phones, internet, home office,
9 utilities, and computers while performing work for Defendants.

10 96. Plaintiff and the Reimbursement Class Members have incurred, and are continuing to incur,
11 necessary expenditures and losses in direct consequence of the discharge of duties, or of obedience to
12 Defendants’ directions as an employer, which at the time of obeying the directions, Plaintiff and the
13 Reimbursement Class Members believed to be lawful.

14 97. The acts and omissions herein violated California Labor Code section 2802(a) and violates
15 California Labor Code sections 221 through 224. Plaintiff and Reimbursement Class Members are entitled
16 to attorney’s fees under to California Labor Code section 2802(c).

17 98. Plaintiff seeks reimbursement and indemnification for himself and all other class members
18 similarly situated for all necessary expenditures or losses incurred by them in direct consequence of the
19 discharge of their duties, or obedience to the directions of the Defendants as an employer.

20 99. During the relevant time period, Defendants intentionally and improperly failed to
21 reimburse necessary expenditures Plaintiff and the Reimbursement Class Members incurred.

22 100. Under the California Labor Code sections cited herein, Plaintiff and Class Members are
23 entitled to recover the necessary expenditures they incurred for the March 1, 2020 through preliminary
24 approval, plus reasonable attorney’s fees and costs under California Labor Code section 2802.

25 101. By virtue of Defendants’ unlawful failure to reimburse necessary expenditures Plaintiff
26 and Class Members incurred, Plaintiff and the Reimbursement Class Members have incurred damages in
27 amounts presently unknown to Plaintiff and the Reimbursement Class Members.

1 102. Plaintiff is informed and believes, and based upon that information and belief alleges, that
2 Defendants, and each of them, knew or should have known Plaintiff and the Reimbursement Class
3 Members were not being reimbursed for all necessary business expenditures they incurred.

4 103. As a direct and legal (proximate) result of Defendants' violation of the California Labor
5 Code, Plaintiff and the Reimbursement Class Members have been damaged. Under California Labor Code
6 section 2802, Plaintiff and Reimbursement Class Members are entitled to, and request reimbursement of
7 all necessary expenditures they incurred, interest, penalties, reasonable attorney's fees, and costs, incurred
8 in this action in an amount to be proven at or following trial of this matter.

9 **NINTH CAUSE OF ACTION**

10 **Violation of Business and Professions Code section 17200, et seq.**

11 *(Plaintiff, the Class, and Reimbursement Class, against all Defendants)*

12 Plaintiff incorporates by reference and re-allege, as if fully stated herein, the material allegations
13 set forth in paragraphs 1 through 103.

14 104. Defendants' conduct, as alleged herein, including not paying Plaintiff and others similarly
15 situated for all wages owed, including overtime wages and minimum wages, wages for missed meal
16 periods and missed rest periods, not reimbursing business expenses, not providing Plaintiff and all other
17 similarly situated employees with accurate wage statements, unlawfully deducting wages, and not paying
18 Plaintiff and all other similarly situated employees all wages due upon separation from Defendants, has
19 been, and continues to be unlawful and unfair, and harmful to Plaintiff and all other similarly situated
20 employees, and the general public.

21 105. Defendants' activities as alleged herein are in violation of California law, and constitute
22 unlawful and unfair business practices in violation of Business and Professions Code section 17200, et
23 seq., which justify the issuance of an injunction, restitution, and other equitable relief pursuant to
24 California Business and Professions Code §17203.

25 106. Plaintiff and all other similarly situated employees have been personally harmed by
26 Defendants' unlawful and unfair business practices as alleged herein, including, but not necessarily
27 limited to, the loss of money or property.

1 107. Defendants have failed and refused to pay Plaintiff and Class Members minimum and
2 overtime wages, commissions, and meal/rest period violations at the regular rate. More specifically,
3 Defendants' conduct violated laws by failing to pay overtime wages to Plaintiff and Class Members, who
4 regularly worked in excess of forty (40) hours per workweek. Defendants have failed and refused to
5 provide Plaintiff and Class Members with meal and rest breaks in violation of the California Labor Code
6 §§226.7(a) and 512. Defendants have failed to reimburse Plaintiff and the Reimbursement Class
7 Members business expenses pursuant California Labor Code §2800 and 2802. Defendants have failed to
8 provide Plaintiff and similarly situated employees with accurate wage statements pursuant to California
9 Labor Code section 226 as a result of failing to lawfully compensate Plaintiff and similarly situated
10 employees and failed to provide Plaintiff and similarly situated employees with the wages owed upon
11 separation pursuant to California Labor Code section 201-203. Defendants have failed to keep accurate
12 payroll records, have unlawfully deducted wages, and failed to pay minimum wages. Defendants violated
13 California Business and Professions Code §17200, et seq. as a result of violating these statutory
14 provisions, where Plaintiff and Class Members suffered an economic hardship in order for Defendants to
15 pursue monetary gain.

16 108. Plaintiff, Class Members, and Reimbursement Class Members seek restitution for
17 Defendants knowingly and willfully (or should have known) violating California law and the Labor Code
18 in order for Defendants to financially benefit from its illegal and unfair practices at the expense and work
19 of Plaintiff and all similarly situated employees.

20 109. A violation of Business and Professions Code section 17200, et seq. may be predicated on
21 the violation of any state and/or federal law.

22 110. Pursuant to Business and Professions Code section 17200, et seq., Plaintiff and Class
23 Members are entitled to restitution of the minimum wages and overtime wages, unlawfully deducted
24 wages, and premium pay for improper meal and rest periods withheld and retained by Defendants during
25 a period that commences four (4) years prior to the filing of this Complaint; waiting time penalties;
26 reimbursement (Plaintiff and Reimbursement Class Members); a declaration that the above business
27 practices are unlawful and unfair; a permanent injunction requiring Defendants to pay all outstanding
28 wages due to Plaintiff and all other similarly situated employees. Plaintiff, individually, on behalf of all

1 similarly situated employees, and on behalf of the general public through his respective attorneys are
2 serving to enforce an important right of the prompt payment of wages due to employees that affects the
3 affecting a significant public interest.

4 111. Plaintiff through this action is conferring a substantial benefit on the general public by
5 ensuring the prompt payment of wages due to employees and a large class of persons (at this time believed
6 to exceed 100 class members), there exists a necessity (Defendants have maintained this illegal practice
7 for at least four years) and financial burden of private enforcement makes an award of attorney's fees
8 appropriate, which should not in the interest of justice be taken out of any award since these any
9 disgorgement or restitution to Plaintiff and class members are owed to them as wages for time worked
10 while employed by Defendants.

11 **TENTH CAUSE OF ACTION**

12 **Violation of The CALIFORNIA WORKER ADJUSTMENT AND**
13 **RETRAINING NOTIFICATION (WARN) ACT**

14 *(Plaintiff, the Warn Act Class, against all Defendants)*

15 Plaintiff incorporates by reference and re-allege, as if fully stated herein, the material allegations
16 set forth in paragraphs 1 through 111.

17 112. Plaintiff incorporates by reference and re-allege, as if fully stated herein, the material
18 allegations set forth in paragraphs 1 through 103.

19 113. The California WARN Act requires employers to provide written notice at least 60
20 calendar days in advance of covered plant closings, mass layoffs, or relocation. An employer's notice
21 assures that assistance can be provided to affected workers, their families, and the appropriate
22 communities through the State Rapid Response Dislocated Worker Unit. The advance notice allows
23 workers and their families transition time to seek alternative jobs or enter skills training programs. Upon
24 receipt of a WARN notice, the State Rapid Response Dislocated Worker Unit coordinates with the
25 employer to provide on-site information to the workers and employers about employment and retraining
26 services that are designed to help participants find new jobs.

27 These services may include:

- 28
 - Labor market information (occupational information and economic trends)

- Job search and placement assistance
- On-the-job training
- Classroom training
- Entrepreneurial training
- Referral to basic and remedial education

114. Employers need to inform the Local Workforce Development Board and the top elected official in each city and county where the changes are happening.

115. Employers are required to provide a WARN notification (WARN Notice) when there is a plant closure affecting any number of employees, A layoff of 50 or more employees within a 30-day period triggers the Act, regardless of the percentage of the workforce when there is a relocation of at least 100 miles that affects any number of employees.

116. The California WARN Act outlines specific conditions under which it applies and provides exceptions to certain circumstances. The Act is applicable to a “covered establishment,” defined as an employer that has employed, in the preceding 12 months, 75 or more full and part-time employees. Employees must have a minimum of six months of employment within the 12 months preceding the required notice date to be counted.

117. Employers who violate the California WARN Act are exposed to fines of \$500 per day for each day there are violation of the law. Further employees are entitled to back pay, calculated based on their final salary or their average salary over three years—whichever is higher. Plus, employers may have to cover medical bills that would have been paid by the company’s health plan. This responsibility lasts for as long as the violation lasts. This can be up to 60 days or half the time the employee worked—whichever is shorter.

118. Defendant has employed 75 or more full and part-time employees, including Plaintiff, in the previous 12 months with each employee must having a minimum of six months of employment within the 12-month period leading up to the required notice date, which is 60 days prior to March 5, 2024.

119. On or about March 5, 2024, Defendants engaged in a mass lay-off wherein Defendant laid off 50 or more employees within a 30-day period, including Plaintiff which triggers the California WARN Act.

1 120. Defendant violated the California WARN Act by failing to comply with the employer
2 requirements under the California WARN Act owed to Plaintiff and the WARN Class Members,
3 including providing Plaintiff and the WARN Class Members with the requisite 60-day notice before the
4 mass-layoff.

5 121. As a direct and legal (proximate) result of Defendants' violation of the California WARN
6 Act, Plaintiff and the WARN Act Class Members have been damaged. Under California law, Plaintiff
7 and the WARN Class Members are entitled to recover statutory damages and all back pay, interest,
8 penalties, reasonable attorney's fees, and costs, incurred in this action in an amount to be proven at or
9 following trial of this matter.

10 **PRAYER FOR RELIEF**

11 Plaintiff prays for relief and judgment against Defendants, jointly and severally as follows:

- 12 1. For an order certifying the proposed class and sub-classes;
- 13 2. For an order appointing Plaintiff as representatives of the Class and sub-classes;
- 14 3. For an order appointing counsel for Plaintiff as counsel for Plaintiff Class and sub-classes;
- 15 4. For compensatory, consequential, general, special and statutory damages according to
16 proof;
- 17 5. For restitution of all monies due to Plaintiff and Class Members arising from Defendants'
18 unlawful, unfair, and or fraudulent business practices;
- 19 6. For injunctive relief necessary and appropriate to modify Defendants' conduct in
20 accordance with the requirements of California law;
- 21 7. For interest accrued to date;
- 22 8. For costs of suit, expenses, and attorney fees allowed by law;
- 23 9. For all such other and further relief the Court may deem just and proper.

24
25 Dated: April 25, 2024

RIGHETTI GLUGOSKI, P.C.

26
27 By: /s/ John Glugoski, Esq.
Attorneys for Plaintiff