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MARGARET J. DOWN

7 Attorneys for Plaintiff LEONARDO MOTTA, on behalf of himself,
all others similarly situated, and on behalf of the general public.

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9
10 **IN AND FOR THE COUNTY OF ALAMEDA**

11 LEONARDO MOTTA, on behalf
of himself, all others similarly
12 situated, and on behalf of the
general public
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14 Plaintiff,
15
16 v.
17 ROADRUNNER
TRANSPORTATION SERVICES,
18 INC.; CENTRAL CAL
TRANSPORTATION, LLC; and
DOES 1-100, inclusive,
19 Defendants.

Case No. RG15770011

**PLAINTIFF'S FIRST AMENDED CLASS
ACTION COMPLAINT FOR DAMAGES,
RESTITUTION, INJUNCTIVE, AND
DECLARATORY RELIEF**

- 1) Wage Theft/Time Shaving;
- 2) Failure to Pay Compensation for All Time Worked (Cal. Code Regs., tit. 8, § 11090, subs. 1 and 4(B), Lab. Code § 200);
- 3) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512, IWC Wage Order Nos. 9-1998, 9-2000, 9-2001(11); Cal. Code Regs., tit. 8, § 11090);
- 4) Failure to Authorize and Permit Rest Breaks (Lab. Code § 226.7; IWC Wage Order Nos. 9-1998, 9-2000, 9-2001(12); Cal. Code Regs., tit. 8, § 11090);
- 5) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statements (Lab. Code §§ 226, 1174, 1175);
- 6) Failure to Pay Timely Wages Due at Termination/Waiting Time Penalties (Lab. Code §§ 201-203);
- 7) Violation of Unfair Competition Law (Bus. & Prof. Code § 17200, et seq.);
- 8) Violations of the Labor Code Private Attorneys General Act of 2004 ("PAGA")

BY FAX

1 Plaintiff LEONARDO MOTTA, on behalf of himself, all others similarly situated, and on
2 behalf of the general public, complains of Defendant and/or DOES and for causes of action and
3 alleges:

4 1. This is a class action pursuant to *California Code of Civil Procedure* section 382 on behalf
5 of Plaintiff, LEONARDO MOTTA, and all employees, including but not limited to, hourly
6 drivers, truck drivers, delivery truck drivers, industrial truck workers, and/or any
7 employees with similar job designations and titles, not classified as “Exempt” or primarily
8 employed in executive, professional, or administrative capacities (hereinafter “Non-
9 Exempt Employees”) employed by, or formerly employed by, ROADRUNNER
10 TRANSPORTATION SERVICES, INC.; CENTRAL CAL TRANSPORTATION, LLC
11 (hereinafter collectively “ROADRUNNER/CENTRAL CAL” or “Defendant”) and/or its
12 subsidiaries or affiliated companies and/or DOES, within the State of California.

13 2. At all times mentioned herein, the common policies and practices of Defendant
14 ROADRUNNER/CENTRAL CAL and/or DOES was a direct cause of Defendant and/or
15 DOES failure to comply with California’s wage and hours laws, Wage Orders, and/or the
16 *California Labor Code*, as set forth more fully herein.

17 3. Throughout the liability period, Defendant ROADRUNNER/CENTRAL CAL and/or
18 DOES have had a consistent policy of failing to compensate Non-Exempt Employees
19 within the State of California, including Plaintiff, for all hours worked.

20 4. For at least four years prior to the filing of this action and through to the present, Defendant
21 ROADRUNNER/CENTRAL CAL and/or DOES have had a continuous policy of “time
22 shaving” or not paying Plaintiff and those similarly situated for all of their hours worked.
23 Specifically, Defendant and/or DOES have had a continuous and widespread policy of
24 “clocking-out” Plaintiff and those similarly situated for thirty (30) minute meal periods
25 (hereby referred to as “auto-meal deduct”), thereby deducting thirty (30) minutes of paid
26 time, including straight time and overtime, even though Plaintiff and those similarly
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1 situated worked through their meal periods, were not relieved of all duties, were not
2 relinquished control over their activities, were not permitted a reasonable opportunity to
3 take an uninterrupted thirty (30) minute break and/or were impeded, discouraged, and/or
4 given an incentive to forego their meal break.

5 5. For at least four years prior to the filing of this action and through to the present, Defendant
6 ROADRUNNER/CENTRAL CAL and/or DOES have had a consistent policy of failing to
7 provide all straight time and overtime wages owed to Non-Exempt Employees, as
8 mandated under the *California Labor Code* and the implementing rules and regulations of
9 the Industrial Welfare Commission's (IWC) California Wage Orders.

10 6. For at least four years prior to the filing of this action and through to the present, Defendant
11 ROADRUNNER/CENTRAL CAL and/or DOES have had a consistent policy of requiring
12 Non-Exempt Employees within the State of California, including Plaintiff, to work through
13 meal periods and work at least five (5) hours without a meal period and failing to pay such
14 employees one (1) hour of pay at the employees' regular rate of compensation for each
15 workday that the meal period is not provided, or other compensation, as required by
16 California's state wage and hour laws, and automatically deducting a half hours pay from
17 their wages.
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19 7. For at least four years prior to the filing of this action and through the present, Defendant
20 ROADRUNNER/CENTRAL CAL and/or DOES did not have a policy of allowing its
21 hourly employees working shifts of ten (10) or more hours in a day to take a second meal
22 period of not less than thirty (30) minutes as required by the applicable Wage Order of the
23 Industrial Welfare Commission.

24 8. For at least four years prior to the filing of this action and through to the present, Defendant
25 ROADRUNNER/CENTRAL CAL and/or DOES have had a consistent policy of requiring
26 Non-Exempt Employees within the State of California, including Plaintiff, to work over
27 ten (10) hours without providing an additional, uninterrupted meal period of thirty (30)
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1 minutes and failing to pay such employees one (1) hour of pay at the employees' regular
2 rate of compensation for each workday that the meal period is not provided, or other
3 compensation, as required by California's state wage and hour laws.

4 9. For at least four years prior to the filing of this action and through to the present, Defendant
5 ROADRUNNER/CENTRAL CAL and/or DOES have had a consistent policy of requiring
6 Non-Exempt Employees within the State of California, including Plaintiff, to work for over
7 four (4) hours, or a major fraction thereof, without a ten (10) minute rest period and failing
8 to pay such employees one (1) hour of pay at the employees' regular rate of compensation
9 for each workday that the rest period is not provided, or other compensation, as required
10 by California's state wage and hour laws.

11 10. For at least four years prior to filing this action and through to the present, Defendant
12 ROADRUNNER/CENTRAL CAL and/or DOES have knowingly and intentionally failed
13 to comply with the itemized employee wage statement provisions and have failed to pay
14 Plaintiff and those similarly situated compensation for said violations, as required by
15 California's state wage and hour laws.

16 11. For at least four years prior to the filing of this action and through to the present, Defendant
17 ROADRUNNER/CENTRAL CAL and/or DOES and/or their officers and/or managing
18 agents willfully failed to pay, in a timely manner, wages owed to Plaintiff and members of
19 the Class who left Defendant ROADRUNNER/CENTRAL CAL and/or DOES' employ or
20 were terminated.

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22 12. For at least four years prior to the filing of this action and through to the present, Defendant
23 ROADRUNNER/CENTRAL CAL and/or DOES, by failing to lawfully pay Plaintiff and
24 those similarly situated all the wages they are owed, engaged in false, unfair, fraudulent
25 and deceptive business practices within the meaning of the *Business and Professions Code*
26 section 17200, et seq.

27 13. Plaintiff LEONARDO MOTTA, on behalf of himself and all Class members, brings this
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1 action pursuant to *Labor Code* sections 226, subdivision (b), 226.7, 510, 512, 558, 1194,
2 and California Code of Regulations, Title 8, section 11090, seeking unpaid wages and
3 overtime, unpaid rest and meal period compensation, penalties, injunctive and other
4 equitable relief, relief under the Labor Code Private Attorney's General Act of 2004
5 ("PAGA") and reasonable attorneys' fees and costs.

6 14. Plaintiff LEONARDO MOTTA, on behalf of himself and all Class members, pursuant to
7 *Business and Professions Code* sections 17200-17208, also seeks injunctive relief and
8 restitution from Defendant ROADRUNNER/CENTRAL CAL and/or DOES for their
9 failure to pay straight time and overtime wages, and rest and meal period compensation.

10 15. Defendant ROADRUNNER/CENTRAL CAL and/or DOES own and operate trucks,
11 industrial trucks, industrial vehicles, and/or industrial work sites, and, at all times during
12 the liability period, have conducted business in Alameda County and elsewhere within
13 California. At these work sites and throughout California, Defendant and/or DOES have,
14 among other things, employed persons as drivers, truck drivers, delivery truck drivers,
15 and/or industrial truck workers.

16 16. Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' business is staffed, *inter*
17 *alia*, by hourly Non-Exempt Employees such as drivers, truck drivers, delivery truck
18 drivers, industrial truck workers, and/or other hourly Non-Exempt Employees. Defendant's
19 and/or DOES' employees have not been paid during the liability period all their straight
20 time and overtime wages, and rest and meal period compensation. Plaintiff is informed and
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22 believes, and based thereon alleges, Defendant and/or DOES currently employ many
23 employees in the State of California as Non-Exempt Employees.

24 17. During the liability period, Plaintiff LEONARDO MOTTA and members of the Plaintiff
25 Class were employed by Defendant ROADRUNNER/CENTRAL CAL and/or DOES as
26 Non-Exempt Employees and were paid on an hourly basis. Plaintiff and the members of
27 the Plaintiff Class of ROADRUNNER/CENTRAL CAL Non-Exempt Employees were not
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1 provided all straight time and overtime wages owed, and rest or meal periods or
2 compensation in lieu thereof, as mandated under the *California Labor Code* and the
3 implementing rules and regulations of the IWC California Wage Orders.

4 18. Throughout the statutory period, ROADRUNNER/CENTRAL CAL's and/or DOES'
5 employees, including Plaintiff and similarly situated Non-Exempt Employees, were not
6 provided all straight time and overtime wages owed, meal periods and rest periods, or
7 compensation in lieu thereof, as mandated under the *California Labor Code*, and the
8 implementing rules and regulations of the IWC California Wage Orders.

9 19. Throughout the statutory period, ROADRUNNER/CENTRAL CAL's and/or DOES'
10 employees, including Plaintiff and similarly situated Non-Exempt Employees were not
11 provided with accurate and itemized employee wage statements.

12 20. Defendant ROADRUNNER/CENTRAL CAL and/or DOES failed to comply with *Labor*
13 *Code* section 226, subdivision (a), by itemizing in wage statements all hourly compensation
14 and accurately reporting total hours worked by Plaintiff and the members of the proposed
15 class. Plaintiff and members of the proposed class are entitled to penalties not to exceed
16 \$4,000 for each employee pursuant to *Labor Code* section 226(b).

17 21. Defendant ROADRUNNER/CENTRAL CAL and/or DOES have failed to comply with
18 IWC Wage Order 9-2001(7) by failing to maintain time records showing hourly
19 compensation, when the employee begins and ends each work day and total daily hours
20 worked by itemizing in wage statements and accurately reporting total hours worked by
21 Plaintiff and members of the proposed class.

22 22. Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' failure to retain accurate
23 records of total hours worked by Plaintiff and the proposed class was willful and deliberate,
24 was a continuous breach of ROADRUNNER/CENTRAL CAL's and/or DOES' duty owed
25 to Plaintiff and the proposed class.

26 23. Defendant ROADRUNNER/CENTRAL CAL and/or DOES are and were aware that the
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1 ROADRUNNER/CENTRAL CAL Non-Exempt Employees were not paid all straight time
2 and overtime wages owed, nor provided rest and meal periods. Defendant's and/or DOES'
3 denial of wages and other compensation due to Plaintiff and members of the Plaintiff Class
4 in the position of ROADRUNNER/CENTRAL CAL Non-Exempt Employees was willful
5 and deliberate.

6 24. Defendant ROADRUNNER/CENTRAL CAL's and/or DOES willfully failed to pay the
7 straight time and overtime wages owed and rest and meal period wages of former
8 ROADRUNNER/CENTRAL CAL and/or DOES Non-Exempt Employees, including
9 Plaintiff and members of the Plaintiff Class, when each such employee quit or was
10 discharged.

11 25. Plaintiff LEONARDO MOTTA, on behalf of himself and all putative Class Members of
12 ROADRUNNER/CENTRAL CAL's and/or DOES' non-exempt employees, pursuant to
13 *California Business and Professions Code* sections 17200-17208, also seeks injunctive
14 relief, restitution, and disgorgement of all benefits ROADRUNNER/CENTRAL CAL
15 and/or DOES enjoyed from their failure to pay all straight time wages, overtime wages,
16 and meal and rest period compensation.

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18 **I. VENUE**

19 26. Venue as to each Defendant, ROADRUNNER/CENTRAL CAL and/or DOES, is proper
20 in this judicial district pursuant to *Code of Civil Procedure* section 395. Defendant
21 ROADRUNNER/CENTRAL CAL and/or DOES employs non-exempt hourly employees
22 that work as drivers, truck drivers, delivery truck drivers, industrial truck workers, and/or
23 any similar job designation.

24 27. Defendant ROADRUNNER/CENTRAL CAL and/or DOES conduct business and commit
25 *Labor Code* violations within Alameda County, and each Defendant and/or DOE is within
26 the jurisdiction of this Court for service of process purposes. The unlawful acts alleged
27 herein have a direct effect on Plaintiff and those similarly situated within the State of
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1 California and within Alameda County. Defendant and/or DOES employ numerous Class
2 members who work in California and/or Alameda County. All of the unlawful acts alleged
3 herein occurred in Alameda County.

4 **II. PARTIES**

5 **A. Plaintiff.**

6 28. At all relevant times herein, Plaintiff LEONARDO MOTTA is and was a resident of
7 California. At all relevant times herein, he was employed by Defendant
8 ROADRUNNER/CENTRAL CAL and/or DOES within the last four (4) years as a driver,
9 truck driver, delivery truck driver, industrial truck worker and/or any similar job
10 designation at ROADRUNNER/CENTRAL CAL and/or DOES in California. Throughout
11 his employment with ROADRUNNER/CENTRAL CAL and/or DOES, Plaintiff was
12 employed in a non-exempt capacity as an hourly driver, truck driver, industrial truck
13 worker, and/or any similar job designation.

14 29. On information and belief, Plaintiff LEONARDO MOTTA and all other members of the
15 proposed Class experienced Defendant ROADRUNNER/CENTRAL CAL's and/or
16 DOES' common company policies and/or practices of failing to pay Plaintiff and the
17 members of the Class for all straight time and overtime wages.

18 30. On information and belief, Plaintiff LEONARDO MOTTA and all other members of the
19 proposed Class experienced Defendant ROADRUNNER/CENTRAL CAL's and/or
20 DOES' common company policies and/or practices of illegally deducting wages from
21 employees.

22 31. On information and belief, Plaintiff LEONARDO MOTTA and all other members of the
23 proposed Class experienced Defendant ROADRUNNER/CENTRAL CAL's and/or
24 DOES' common company policies and/or practices of failing to compensate Plaintiff and
25 the Class members for all hours worked.

26 32. On information and belief, Plaintiff LEONARDO MOTTA and all other members of the
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1 proposed Class experienced Defendant ROADRUNNER/CENTRAL CAL's and/or
2 DOES' common policies and/or practices of failing to pay all straight time and overtime
3 wages owed, auto-meal deduct, and providing no meal periods to employees working at
4 least five (5) hours or any additional meal periods for working in excess of ten (10) hours,
5 or compensation in lieu thereof.

6 33. On information and belief, Plaintiff and all other members of the proposed Class
7 experienced Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' common
8 company policies and/or practices of failing to provide ten (10) minute paid rest breaks to
9 employees who worked four (4) hours or major fraction thereof.

10 34. On information and belief, Plaintiff and all other members of the proposed Class
11 experienced Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' common
12 company policies and/or practices of failing to provide Non-Exempt Employees with
13 accurate itemized wage statements. On information and belief, Defendant's and/or DOES'
14 failure to provide to their Non-Exempt Employees, including Plaintiff, with accurate
15 itemized wage statements was willful.

16 35. On information and belief, Defendant and/or DOES willfully failed to pay their Non-
17 Exempt Employees, including Plaintiff and members of the proposed Class, in a timely
18 manner, compensation owed to them upon termination of their employment with
19 ROADRUNNER/CENTRAL CAL and/or DOES.

20 36. On information and belief, Plaintiff LEONARDO MOTTA and all other members of the
21 proposed Class experienced Defendant ROADRUNNER/CENTRAL CAL's and/or
22 DOES' fraudulent and deceptive business practices within the meaning of the *Business and*
23 *Professions Code* section 17200, *et seq.*

24 37. Plaintiff LEONARDO MOTTA and the proposed Class he seeks to represent are covered
25 by, inter alia, California IWC Occupational Wage Order Nos. 9-1998, 9-2000, and 9-2001,
26 and Title 8, California Code of Regulations, section 11090.
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2 **B. Defendants.**

3 38. Defendant ROADRUNNER/CENTRAL CAL and/or DOES are a leading asset-light
4 transportation and logistics services provider offering a full suite of solutions, including
5 customized and expedited less-than-truckload, truckload and logistics, transportation
6 management solutions, intermodal, brokerage, freight consolidation, inventory
7 management, and domestic and international air.

8 39. On information and belief, each Defendant and/or DOE is conducting business in
9 California. ROADRUNNER/CENTRAL CAL and/or DOES provide service to customers
10 throughout California, including but not limited to Alameda County. In providing this
11 service, Defendant ROADRUNNER/CENTRAL CAL and/or DOES have numerous
12 offices and/or contacts within the State of California.

13 40. During the liability period, Defendant ROADRUNNER/CENTRAL CAL and/or DOES
14 employed Plaintiff and similarly situated persons as drivers, truck drivers, delivery truck
15 drivers, industrial truck workers, and/or any similar job designation within California.

16 41. On information and belief and throughout the liability period,
17 ROADRUNNER/CENTRAL CAL and/or DOES paid its drivers, truck drivers, delivery
18 truck drivers, industrial truck workers, and/or any similar job designation on an hourly
19 basis.
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21 42. On information and belief, Defendant ROADRUNNER/CENTRAL CAL and/or DOES
22 each and collectively controlled the wages, hours, and working conditions of Plaintiff and
23 the Class he seeks to represent, creating a joint-employer relationship over Plaintiff and the
24 Class he seeks to represent.

25 43. Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' principal place of business
26 is in the State of California.

27 44. California is the nerve center of Defendant ROADRUNNER/CENTRAL CAL's and/or
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1 DOES' operations.

2 45. The true names and capacities, whether individual, corporate, associate, or otherwise, of
3 Defendants DOES 1-100, inclusive, are presently unknown to Plaintiff, who therefore sue
4 these Defendants by such fictitious names under *Code of Civil Procedure* section 474.
5 Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants
6 designated herein as a DOE is legally responsible in some manner for the unlawful acts
7 referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the
8 true names and capacities of the Defendants designated hereinafter as DOES when such
9 identities become known.

10 46. Plaintiff is informed and believes, and based thereon alleges, that each Defendant and/or
11 DOE acted in all respects pertinent to this action as the agent of the other Defendants and/or
12 DOES, carried out a joint scheme, business plan or policy in all respects pertinent hereto,
13 and the acts of each Defendant and/or DOE are legally attributable to the other Defendants
14 and/or DOES.

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16 **III. CLASS ACTION ALLEGATIONS**

17 47. Plaintiff brings this action on behalf of himself and all others similarly situated as a class
18 action pursuant to section 382 of the *California Code of Civil Procedure*. Plaintiff seeks to
19 represent a Class composed of and defined as follows:

20 All persons who are or have been employed by Defendant
21 ROADRUNNER/CENTRAL CAL and/or DOES in the State of
22 California as hourly Non-Exempt Employees, drivers, truck drivers,
23 delivery truck drivers, industrial truck workers, and/or any similar
24 job designations and titles during the liability period of the relevant
25 statute of limitations.

26 Plaintiff also seeks to represent a Subclass composed of and defined as follows:

27 All persons who are or have been employed by Defendant
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1 ROADRUNNER/CENTRAL CAL and/or DOES in the State of
2 California as hourly Non-Exempt Employees, drivers, truck drivers,
3 delivery truck drivers, industrial truck workers, and/or any similar
4 job designations and titles during the period of the relevant statute
5 of limitations, who were subject to auto-meal deduct, when they
6 were not relieved of all duties.

7 All persons who are or have been employed by Defendant
8 ROADRUNNER/CENTRAL CAL and/or DOES in the State of
9 California as hourly Non-Exempt Employees, drivers, truck drivers,
10 delivery truck drivers, industrial truck workers, and/or any similar
11 job designations and titles during the period of the relevant statute
12 of limitations, who were not paid all straight time wages and
13 overtime.

14 All persons who are or have been employed by Defendant
15 ROADRUNNER/CENTRAL CAL and/or DOES in the State of
16 California as hourly Non-Exempt Employees, drivers, truck drivers,
17 delivery truck drivers, industrial truck workers, and/or any similar
18 job designations and titles during the period of the relevant statute
19 of limitations, who have worked five (5) and/or ten (10) hours
20 without being provided a meal period and/or additional meal period
21 and were not provided compensation of one (1) hours pay or other
22 compensation for each day on which such meal period was not
23 provided.

24 All persons who are or have been employed by Defendant
25 ROADRUNNER/CENTRAL CAL and/or DOES in the State of
26 California as hourly Non-Exempt Employees, drivers, truck drivers,
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1 delivery truck drivers, industrial truck workers, and/or any similar
2 job designations and titles during the period of the relevant statute
3 of limitations, who have not been authorized and permitted to take
4 a rest period for every four (4) hours or major fraction thereof
5 worked per day and were not provided compensation of one (1)
6 hours pay or other compensation for each day on which such rest
7 periods were not authorized and permitted.

8 All persons who are or have been employed by Defendant
9 ROADRUNNER/CENTRAL CAL and/or DOES in the State of
10 California as hourly Non-Exempt Employees, drivers, truck drivers,
11 delivery truck driers, industrial truck workers, and/or any similar job
12 designations and titles during the period of the relevant statute of
13 limitations, who Defendant ROADRUNNER/CENTRAL CAL
14 and/or DOES willfully failed to pay in a timely manner,
15 compensation owed to them upon termination of their employment
16 with ROADRUNNER/CENTRAL CAL and/or DOES.

17 All persons who are or have been employed by Defendant
18 ROADRUNNER/CENTRAL CAL and/or DOES in the State of
19 California as hourly Non-Exempt Employees, drivers, truck drivers,
20 delivery truck drivers, industrial truck workers, and/or any similar
21 job designations and titles, during the period of the relevant statute
22 of limitations, who ROADRUNNER/CENTRAL CAL and/or
23 DOES willfully failed to provide accurate and itemized employee
24 wage statements.
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26 48. Plaintiff reserves the right under California Rules of Court, rule 1855, subdivision (b), to
27 amend or modify the Class description with greater specificity or further division into
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1 subclasses or limitation to particular issues.

2 49. This action has been brought and may properly be maintained as a class action under the
3 provisions of section 382 of the *California Code of Civil Procedure* because there is a well-
4 defined community of interest in the litigation and the proposed Class is easily
5 ascertainable.

6 **A. Numerosity.**

7 50. The potential members of the Class as defined are so numerous that joinder of all the
8 members of the Class is impracticable. While the precise number of Class members has
9 not been determined at this time, Plaintiff is informed and believes that Defendant and/or
10 DOES currently employ, and during the liability period employed, at least eighty (80)
11 employees, all in the State of California, in positions as Defendant
12 ROADRUNNER/CENTRAL CAL's and/or DOES' Non-Exempt Employees that are
13 drivers, truck drivers, delivery truck drivers, industrial truck workers, and/or any similar
14 job designation in Alameda County and dispersed throughout California during the liability
15 period and who are or have been affected by Defendant ROADRUNNER/CENTRAL
16 CAL's and/or DOES' policies of wage theft, failing to pay all straight and overtime wages,
17 failing to pay compensation for all time worked, not providing meal periods or providing
18 them more than five (5) hours into an employees shift, not authorizing and permitting rest
19 periods without the appropriate legal compensation, knowingly and intentionally failing to
20 provide accurate and itemized employee wage statements, and willful failure to pay all
21 wages due at time of separation from employment.

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23 51. If employee turnover is accounted for, this number increases substantially. Upon
24 information and belief, Plaintiff alleges Defendant ROADRUNNER/CENTRAL CAL's
25 and/or DOES' employment records would provide information as to the number and
26 location of all Class members. Joinder of all members of the proposed Class is not
27 practicable.

1 **B. Commonality.**

2 52. There are questions of law and fact common to the Class that predominate over any
3 questions affecting only individual Class members. These common questions of law and
4 fact include, without limitation:

5 (1) Whether Defendant ROADRUNNER/CENTRAL CAL
6 and/or DOES violated *Labor Code* sections 510, 1194, and other provisions
7 by shaving time and failing to pay all straight time and overtime wages
8 owed.

9 (2) Whether Defendant ROADRUNNER/CENTRAL CAL's
10 and/or DOES' uniform policy of automatically deducting thirty (30)
11 minutes from its Non-Exempt Employees for each day worked - regardless
12 of whether the Non-Exempt Employees were relieved of duty for thirty (30)
13 minutes - violated the *Labor Code* and Wage Orders.

14 (3) Whether Defendant ROADRUNNER/CENTRAL CAL's
15 and/or DOES' policy of deducting a half-hours pay, regardless of whether
16 the Non-Exempt Employee was actually provided a legally compliant meal
17 period, is illegal.

18 (4) Whether Defendant ROADRUNNER/CENTRAL CAL's
19 and/or DOES' uniform policies of establishing and scheduling routes to be
20 completed in overly demanding time frames resulted in Defendant and/or
21 DOES not providing meal and rest periods, in that said policies pressured
22 its Non-Exempt Employees to complete their routes within the rigorous
23 time frames and not break route to take meal and rest periods and/or not
24 legally provide meal periods.

25 (5) Whether Defendant ROADRUNNER/CENTRAL CAL
26 and/or DOES had a pattern and practice of pressuring its hourly Non-
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1 Exempt Employees to complete routes within time frames that made it
2 impractical for ROADRUNNER/CENTRAL CAL's and/or DOES' Non-
3 Exempt Employees to be relieved of all duty for thirty (30) minute meal
4 periods and/or ten (10) minute rest periods.

5 (6) Whether Defendant ROADRUNNER/CENTRAL CAL
6 and/or DOES violated *Labor Code* sections 226.7 and 512, IWC Wage
7 Order No. 9-2001 or other applicable IWC Wage Orders, and California
8 Code of Regulations, Title 8, section 11090, by failing to provide meal
9 periods to Non-Exempt Employees per every (5) hours of continuous work
10 and/or failing to pay said employees one (1) hour of pay at the employee's
11 regular rate of compensation for each work day that the meal period was not
12 provided.

13 (7) Whether Defendant ROADRUNNER/CENTRAL CAL
14 and/or DOES violated *Labor Code* sections 226.7 and 512, IWC Wage
15 Order No. 9-2001 or other applicable IWC Wage Orders, and California
16 Code of Regulations, Title 8, section 11090, by not relieving Non-Exempt
17 Employees of all duties during a thirty (30) minute meal period and not
18 counting the time as time worked.

19 (8) Whether the inexistence of a policy allowing a second meal
20 period in shifts of over five (5) hours resulted in Defendant
21 ROADRUNNER/CENTRAL CAL and/or DOES Non-Exempt Employees
22 not being provided a second meal period in accordance with the *Labor Code*
23 and Wage Orders.

24 (9) Whether Defendant ROADRUNNER/CENTRAL CAL
25 and/or DOES violated the *Labor Code* section 226.7, IWC Wage Order No.
26 9-2001 or other applicable IWC Wage Orders, and California Code of
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1 Regulations, Title 8, section 11090, by failing to authorize, permit, and/or
2 provide rest periods to employees for every four (4) hours or major fraction
3 thereof worked and/or failing to pay said employees one (1) hour of pay at
4 the employee's regular rate of compensation for each work day that the rest
5 period was not authorized, permitted, and/or provided.

6 (10) Whether the inexistence of a policy allowing a third rest
7 period in shifts of over ten (10) hours resulted in
8 ROADRUNNER/CENTRAL CAL and/or DOES Non-Exempt Employees
9 not being authorized and permitted to take a rest period in shifts of over ten
10 (10) hours in accordance with the *Labor Code* and Wage Orders.

11 (11) Whether Defendant ROADRUNNER/CENTRAL CAL
12 and/or DOES had uniform policies and/or practices of failing to provide
13 Non-Exempt Employees accurate and itemized wage statements.

14 (12) Whether Defendant ROADRUNNER/CENTRAL CAL
15 and/or DOES violated section 226 of the *Labor Code* and IWC Wage Order
16 No. 9-2001 subsections (7)(a), (7)(b), (7)(c) by knowingly and intentionally
17 failing to, among other violations, accurately report compensation owed for
18 rest and meal period violations.

19 (13) Whether Defendant ROADRUNNER/CENTRAL CAL
20 and/or DOES violated *Labor Code* sections 226, 1174, and 1175 by not
21 providing employees with accurate and itemized wage statements.

22 (14) Whether Defendant ROADRUNNER/CENTRAL CAL
23 and/or DOES violated section 17200, et seq. of the *California Business and*
24 *Professions Code* by failing to pay all wages owed and failing to keep
25 accurate records of Class members' compensation owed.

26 (15) Whether Defendant ROADRUNNER/CENTRAL CAL
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1 and/or DOES had uniform policies of shaving time and failing to pay all
2 straight time and overtime wages owed.

3 (16) Whether Defendant ROADRUNNER/CENTRAL CAL
4 and/or DOES had uniform policies of automatically deducting thirty (30)
5 minutes from its Non-Exempt Employees for each day worked – regardless
6 of whether the Non-Exempt Employees were relieved of duty for thirty (30)
7 minutes.

8 (17) Whether Defendant ROADRUNNER/CENTRAL CAL
9 and/or DOES had uniform policies of establishing and scheduling routes to
10 be completed in overly demanding time frames.

11 (18) Whether Defendant ROADRUNNER/CENTRAL CAL
12 and/or DOES had a uniform policy of providing a second meal period in
13 shifts of over five (5) hours.

14 (19) Whether Defendant ROADRUNNER/CENTRAL CAL
15 and/or DOES had a uniform policy of providing a third rest period in shifts
16 of over ten (10) hours.

17 (20) Whether Defendant ROADRUNNER/CENTRAL CAL
18 and/or DOES violated *Labor Code* section 203 by willfully failing to timely
19 pay all wages owed to employees who left ROADRUNNER/CENTRAL
20 CAL's and/or DOES' employ or who were terminated.
21

22 53. The answer to each of these respective questions will generate a common answer capable
23 of resolving class-wide liability in one stroke.

24 54. Each of said respective work practices and/or policies were uniform throughout all of
25 Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' California locations during
26 the class period.

27 55. Said common questions predominate over any individualized issues and/or questions
28

1 affecting only individual members.

2 **C. Typicality.**

3 56. The claims of the named Plaintiff are typical of the claims of the proposed class. Plaintiff
4 and all members of the proposed Class sustained injuries and damages arising out of and
5 caused by Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' common course
6 of conduct in violation of laws and regulations that have the force and effect of law and
7 statutes as alleged.

8 57. Plaintiff LEONARDO MOTTA was subjected to the same uniform policies and/or
9 practices that affected all such employees.

10 58. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL's and/or
11 DOES' uniform policies and/or practices resulted in said employees not being compensated
12 for all straight time and overtime wages, rest periods and meal periods.

13 59. As a result of Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' uniform
14 policies and/or practices of not compensating employees for all straight time and overtime
15 wages, rest periods, and meal periods, Plaintiff and said drivers, truck drivers, delivery
16 truck drivers, industrial truck workers, and/or any similar job designation were not
17 compensated for all straight time, overtime, rest periods, and meal periods. Thus, Plaintiff
18 and similarly situated drivers, truck drivers, delivery truck drivers, industrial truck workers,
19 and/or any similar job designation are owed their earned wages, overtime, rest period and
20 meal period compensation.
21

22 60. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL and/or
23 DOES had uniform policies and/or practices of automatically deducting thirty (30) minutes
24 from its employees for each day worked, regardless of whether the employees were
25 relieved of all duties for those thirty (30) minutes, resulting in said employees not being
26 compensated for all earned wages.

27 61. As a result of Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' uniform
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1 policies and/or practices of automatically deducting thirty (30) minutes and not paying all
2 earned wages, Plaintiff and said drivers, truck drivers, delivery truck drivers, industrial
3 truck workers, and/or any similar job designation were not paid the earned wages owed to
4 them. Thus, Plaintiff and said drivers, truck drivers, delivery truck drivers, industrial truck
5 workers, and/or any similar job designation are owed their earned wages.

6 62. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL and/or
7 DOES had uniform policies and/or practices of pressuring employees, including Plaintiff
8 and similarly situated drivers, truck drivers, delivery truck drivers, industrial truck workers,
9 and/or any similar job designation, to not take meal and/or rest breaks.

10 63. As a result of said uniform policies and/or practices of pressuring employees to not take
11 meal and/or rest breaks, Plaintiff and similarly situated drivers, truck drivers, delivery truck
12 drivers, industrial truck workers, and/or any similar job designation regularly did not take
13 meal and/or rest periods and/or worked during meal and/or rest periods.

14 64. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL and/or
15 DOES had uniform policies and/or practices of discouraging employees, including Plaintiff
16 and similarly situated drivers, truck drivers, delivery truck drivers, industrial truck workers,
17 and/or any similar job designation from taking meal and/or rest periods.

18 65. As a result of Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' uniform
19 policies and/or practices of discouraging employees from taking meal and/or rest periods,
20 Plaintiff and similarly situated drivers, truck drivers, delivery truck drivers, industrial truck
21 workers, and/or any similar job designation regularly did not take meal and/or rest periods
22 and/or worked during meal and/or rest periods.

23 66. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL and/or
24 DOES had uniform policies and/or practices of encouraging employees, including Plaintiff
25 and similarly situated drivers, truck drivers, delivery truck drivers, industrial truck workers,
26 and/or any similar job designation to work during meal and/or rest periods.
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1 67. As a result of Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' uniform
2 policies and/or practices of encouraging employees to work during meal and/or rest
3 periods, Plaintiff and similarly situated drivers, truck drivers, delivery truck drivers,
4 industrial truck workers, and/or any similar job designation regularly worked during meal
5 and/or rest periods.

6 68. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL and/or
7 DOES had uniform policies and/or practices of impeding employees, including Plaintiff
8 and similarly situated drivers, truck drivers, delivery truck drivers, industrial truck workers,
9 and/or any similar job designation from taking meal and/or rest periods.

10 69. As a result of Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' uniform
11 policies and/or practices of impeding employees from taking meal and/or rest periods,
12 Plaintiff and similarly situated drivers, truck drivers, delivery truck drivers, industrial truck
13 workers, and/or any similar job designation regularly did not take meal and/or rest periods
14 and/or worked during meal and/or rest periods.

15 70. As a result of Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' uniform
16 policies and/or practices of not satisfying its obligation to authorize and permit rest periods
17 and/or provide meal periods to its employees, Plaintiff and similarly situated drivers, truck
18 drivers, delivery truck drivers, industrial truck workers, and/or any similar job designation
19 did not receive meal and/or rest periods and/or worked during meal and/or rest periods.
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21 71. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL's and/or
22 DOES' uniform policies and/or practices resulted in said employees not being provided
23 with accurate and itemized wage statements.

24 72. As a result of Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' uniform
25 policies and/or practices of not providing employees with accurate and itemized wage
26 statements, Plaintiff and said drivers, truck drivers, delivery truck drivers, industrial truck
27 workers, and/or any similar job designation were not provided with accurate and itemized
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1 wage statements. Thus, Plaintiff and drivers, truck drivers, delivery truck drivers, industrial
2 truck workers, and/or any similar job designation are owed appropriate penalties.

3 73. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL and/or
4 DOES' uniform policies and/or practices resulted in Non-Exempt Employees not being
5 timely paid all wages owed to them at the time they left Defendant
6 ROADRUNNER/CENTRAL CAL's and/or DOES' employ, or were terminated.

7 74. As a result of Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' uniform
8 policies and/or practices of not paying all wages owed at the time of termination, Non-
9 Exempt Employees, including Plaintiff, were not paid the wages owed to them in a timely
10 manner when they left ROADRUNNER/CENTRAL CAL's and/or DOES' employ or were
11 terminated. Thus, Plaintiff and the Non-Exempt Employees who left
12 ROADRUNNER/CENTRAL CAL's and/or DOES' employ or were terminated during the
13 statutory period are owed waiting time penalties.

14
15 **D. Adequacy of Representation.**

16 75. Plaintiff LEONARDO MOTTA will fairly and adequately represent and protect the
17 interests of the members of the Class.

18 76. Plaintiff is ready and willing to take the time necessary to help prosecute this case.

19 77. Plaintiff has no conflicts that will disallow him to fairly and adequately represent and
20 protect the interests of the members of the class.

21 78. Counsel who represent Plaintiff are competent and experienced in litigating large
22 employment class actions.

23 79. Specifically, William Turley, Esq., and David Mara, Esq., are California lawyers in good
24 standing.

25 80. Mr. Turley regularly lectures lawyers on wage and hour class action issues. He has been a
26 featured speaker on many ACI Wage and Hour Class Action presentations and Consumer
27 Attorneys of California Wage and Hour Class Action presentations.
28

1 81. Mr. Turley is listed as Amicus counsel on over twenty (20) California Supreme Court
2 decisions.

3 82. Mr. Turley is a Past President of Consumer Attorneys of San Diego and has been elected
4 to the Board of Governors of the Consumer Attorneys of California for over fifteen (15)
5 years. Mr. Turley is currently on and has been a member of the Consumer Attorneys of
6 California Amicus Curie Committee for over twenty (20) years.

7 83. Mr. Turley has had over one hundred (100) legal articles published, including some on the
8 *California Labor Code*.

9 84. Mr. Turley and Mr. Mara were appointed class counsel in the landmark California Supreme
10 Court case, *Brinker v. Superior Court* and have been appointed as class counsel in many
11 California wage and hour cases, in both State Court and Federal Court.

12 85. Mr. Turley and The Turley Law Firm, APLC, have the resources to take this case to trial
13 and judgment, if necessary.

14 86. Mr. Turley and Mr. Mara have the experience, ability, and ways and means to vigorously
15 prosecute this case.

16
17 **E. Superiority of Class Action.**

18 87. A class action is superior to other available means for the fair and efficient adjudication of
19 this controversy. Individual joinder of all Class members is not practicable, and questions
20 of law and fact common to the Class predominate over any questions affecting only
21 individual members of the Class. Each member of the Class has been damaged and is
22 entitled to recovery by reason of Defendant ROADRUNNER/CENTRAL CAL's and/or
23 DOES' illegal policies and/or practices of wage theft, failing to pay all straight time and
24 overtime wages owed, failing to provide meals and rest periods, knowingly and
25 intentionally failing to comply with wage statement requirements, and failing to pay all
26 wages due at termination.

27 88. Class action treatment will allow those similarly situated persons to litigate their claims in
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1 the manner that is most efficient and economical for the parties and the judicial system.
2 Plaintiff is unaware of any difficulties that are likely to be encountered in the management
3 of this action that would preclude its maintenance as a class action.

4 89. Because such common questions predominate over any individualized issues and/or
5 questions affecting only individual members, class resolution is superior to other methods
6 for fair and efficient adjudication.

7 **IV. CAUSES OF ACTION**

8 **First Cause of Action Against ROADRUNNER/CENTRAL CAL and/or DOES:
9 Wage Theft/Time Shaving**

10 90. Plaintiff and those similarly situated Class members hereby incorporate by reference each
11 and every other paragraph in this Complaint herein as if fully plead.

12 91. Defendant ROADRUNNER/CENTRAL CAL and/or DOES have had a continuous policy
13 of not paying Plaintiff and those similarly situated all wages earned.

14 92. Specifically, Defendant ROADRUNNER/CENTRAL CAL and/or DOES have had a
15 continuous policy of clocking-out Plaintiff and those similarly situated for a thirty (30)
16 minute meal period, even though Plaintiff and all members of the Class work through their
17 meal periods.

18 93. Thus, Defendant ROADRUNNER/CENTRAL CAL and/or DOES shave/steal earned
19 wages from Plaintiff and each and every member of the Class each and every day they
20 work without a meal period and have time automatically deducted.

21 94. Plaintiff and those similarly situated Class members are informed and believe and thereon
22 allege that Defendant ROADRUNNER/CENTRAL CAL and/or DOES breached the legal
23 duty to pay full wages to Plaintiff by automatically deducting a portion of the wages earned
24 when Plaintiff's and the Class members' actual time records indicated that a meal period
25 was not taken. Defendant ROADRUNNER/CENTRAL CAL and/or DOES devised an
26 auto-meal deduct practice, manual method, electronic system, payroll system and/or a
27 computer program to edit the actual hours reported by Plaintiff and the Class members,
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1 deducting a portion of the hours shown as worked hours when a meal period and/or rest
2 period was not taken during the work day and/or Plaintiff and the Class members were not
3 relieved of all duties. Defendant and/or DOES did not make reasonable efforts to determine
4 whether the time deducted was actually worked as reported by Plaintiff and the Class
5 members. Defendant and/or DOES, without a reasonable basis, presumed that actual
6 reported hours had not been accurately reported. The conduct complained of is a form of
7 what is sometimes called “dinging,” “shaving,” or “scrubbing” and is prohibited by law.
8 Defendant and/or DOES also failed to pay for the overtime that was due pursuant to *Labor*
9 *Code* sections 510 and 1194 and Industrial Welfare Commission Order No. 9-2001, item
10 3(A).

11 95. Plaintiff and the Class members are informed and believe and thereon allege that as a direct
12 result of the systematic deductions in pay, resulting from application of an automatic
13 computer program and overtime, Plaintiff and the Class members have suffered, and
14 continue to suffer, substantial unpaid wages, and lost interest on such wages, and expenses
15 and attorneys’ fees in seeking to compel Defendant ROADRUNNER/CENTRAL CAL
16 and/or DOES to fully perform their obligations under state law, all to their respective
17 damage in amounts according to proof at time of trial. Defendant and/or DOES committed
18 the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention
19 on injuring Plaintiff and the Class members. Defendant and/or DOES acted with malice or
20 in conscious disregard of Plaintiff’s and the Class members’ rights. Plaintiff and the Class
21 members are thus entitled to recover nominal, actual, compensatory, punitive, and
22 exemplary damages in amounts according to proof at time of trial. Plaintiff is also entitled
23 to any penalties allowed by law.

24 96. As a direct result of Defendant ROADRUNNER/CENTRAL CAL’s and/or DOES’ policy
25 of illegal wage theft, Plaintiff and those similarly situated have been damaged in an amount
26 to be proven at trial.
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1 97. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described
2 below.

3 **Second Cause of Action Against ROADRUNNER/CENTRAL CAL and/or DOES:**
4 **Failure to Pay Compensation for All Time Worked (Cal. Code Regs., tit. 8, §11090,**
5 **subds. 1 and 4(B), Lab. Code §§ 200, 221, 222, 223)**

6 98. Plaintiff and those similarly situated Class members hereby incorporate by reference each
7 and every other paragraph in this Complaint herein as if fully plead.

8 99. By their policy of not paying compensation for all time worked, including, but not limited
9 to pre-trips, post-trips, waiting time, time between runs, phone time, paper work, loading
10 and/or unloading, and scheduling time to Plaintiff and the proposed class of Non-Exempt
11 Employees, Defendant violated the provisions of Cal. Code Regs., tit. 8, section 11090,
12 subds. 1 and 4(B), *Lab. Code* sections 200, 221, 222, 223.

13 100. By their policy of not providing to Plaintiff and the members of the class meal periods
14 and/or making them work shifts of ten (10) or more hours in a day without a second meal
15 period of not less than thirty (30) minutes or compensation in lieu thereof, Defendant
16 violated the provisions of Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B), *Lab.*
17 *Code* sections 200, 221, 222, 223.

18 101. By their policy of not providing Plaintiff and the members of the Class meal periods and/or
19 by making Plaintiff and the members of the Class work at least five (5) hours without a
20 meal period and failing to pay such employees one (1) hour of pay at the employees' regular
21 rate of compensation for each workday that the meal period is not provided, and/or other
22 compensation, as required by California's state wage and hour laws, Defendant and/or
23 DOES violated the provisions of Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B),
24 *Lab. Code* sections 200, 221, 222, 223.

25 102. By their policy of not providing paid rest breaks at the rate of ten (10) minutes net rest time
26 per four (4) hours or major fraction there of, Defendant violated the provisions of Cal. Code
27 Regs., tit. 8, section 11090, subd. 12(A).

1 103. As a direct result of the unlawful acts of Defendant ROADRUNNER/CENTRAL CAL
2 and/or DOES, Plaintiff and the class he intends to represent have been deprived of wages
3 in amounts to be determined at trial, and are entitled to recovery of such amounts, plus
4 interest thereon, attorneys' fees, and costs, pursuant to the provisions Cal. Code Regs., tit.
5 8, section 11090, subs. 1 and 4(B) and 12(A), *Lab. Code* sections 200, 221, 222, 223.

6 104. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described
7 below.

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9 **Third Cause of Action Against ROADRUNNER/CENTRAL CAL and/or DOES:**
10 **Failure to Provide Meal Periods or Pay Compensation in Lieu Thereof (Lab. Code §§**
11 **226.7, 512; IWC Wage Order No. 9; Cal. Code Regs., tit. 8, §11090)**

12 105. Plaintiff and those similarly situated Class members hereby incorporate by reference each
13 and every other paragraph in this Complaint herein as if fully plead.

14 106. Under *California Labor Code*, section 512, and Industrial Welfare Commission Wage
15 Order No. 9, no employer shall employ any person for a work period of more than five (5)
16 hours without providing a meal period of not less than thirty (30) minutes. During this meal
17 period of not less than thirty (30) minutes, the employee is to be completely free of the
18 employer's control and must not perform any work for the employer. If the employee does
19 perform work for the employer during the thirty (30) minute meal period, the employee
20 has not been provided a meal period in accordance with the law. Also, the employee is to
21 be compensated for any work performed during the thirty (30) minute meal period.

22 107. In addition, an employer may not employ an employee for a work period of more than ten
23 (10) hours per day without providing the employee with another meal period of not less
24 than thirty (30) minutes.

25 108. Under *California Labor Code*, section 226.7, if the employer does not provide an employee
26 a meal period in accordance with the above requirements, the employer shall pay the
27 employee one (1) hour of pay at the employee's regular rate of compensation for each
28 workday that the meal period is not provided.

1 109. Defendant ROADRUNNER/CENTRAL CAL and/or DOES failed to provide thirty (30)
2 minute, uninterrupted meal periods to its Non-Exempt Employees who worked for work
3 periods of more than five (5) consecutive hours. As such, Defendant's and/or DOES' Non-
4 Exempt Employees were required to work well over five (5) consecutive hours at a time
5 without being provided a thirty (30) minute, uninterrupted meal period within that time.

6 110. Defendant ROADRUNNER/CENTRAL CAL and/or DOES failed to provide code
7 compliant meal periods to said employees.

8 111. Defendant ROADRUNNER/CENTRAL CAL and/or DOES failed to provide thirty (30)
9 minute, uninterrupted meal periods to its Non-Exempt Employees for every five (5)
10 continuous hours its Non-Exempt Employees worked.

11 112. Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' business model was such
12 that Non-Exempt Employees were assigned too much work that could not reasonably be
13 completed in their assigned shift, work, and/or route. The end result is that Defendant
14 ROADRUNNER/CENTRAL CAL's and/or DOES' Non-Exempt Employees routinely
15 and regularly are forced to eat their meals while driving and/or while working their routes.

16 113. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL and/or
17 DOES had a pattern and practice of assigning too much work to be completed in too short
18 of time frames, which resulted in Plaintiff and those similarly situated not breaking route
19 to take meal and rest breaks.

20 114. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL and/or
21 DOES had a pattern and practice of establishing and scheduling routes to be completed in
22 overly demanding time frames which resulted in Defendant ROADRUNNER/CENTRAL
23 CAL and/or DOES pressuring its Non-Exempt drivers, truck drivers, delivery truck drivers,
24 industrial truck workers and/or any similar job designation to complete their routes within
25 the rigorous time frames and not take meal breaks.

26 115. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL and/or
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1 DOES had a pattern and practice of establishing and scheduling routes to be completed in
2 overly demanding time frames which resulted in Defendant ROADRUNNER/CENTRAL
3 CAL and/or DOES discouraging its Non-Exempt drivers, truck drivers, delivery truck
4 drivers, industrial truck workers and/or any similar job designation from taking meal
5 periods.

6 116. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL and/or
7 DOES had a pattern and practice of establishing and scheduling routes to be completed in
8 overly demanding time frames which resulted in Defendant and/or DOES impeding its
9 Non-Exempt truck drivers, truck drivers, delivery truck drivers, industrial truck workers
10 and/or any similar job designation from taking meal periods.

11 117. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL and/or
12 DOES had a pattern and practice of establishing and scheduling routes to be completed in
13 overly demanding time frames which resulted in Defendant and/or DOES pressuring its
14 Non-Exempt drivers, truck drivers, delivery truck drivers, industrial truck workers and/or
15 any similar job designation to forego taking meal periods.

16 118. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL and/or
17 DOES valued productivity over providing meal and rest breaks and, because of this, meal
18 and rest breaks were not priorities to Defendant and/or DOES.

19 119. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL's and/or
20 DOES' policies promoting productivity subjugated Plaintiff's and those similarly
21 situated's rights to meal and rest breaks.

22 120. Because of Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' demanding
23 policies on route completion times, Plaintiff and those similarly situated felt that breaking
24 route to exercise their rights to take meal and/or rest breaks would sacrifice their jobs with
25 ROADRUNNER/CENTRAL CAL and/or DOES.

26 121. Based on Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' demanding route
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1 completion time policies, Plaintiff and those similarly situated routinely worked through
2 their meal periods, which compromised the health and welfare of, not only the Plaintiff and
3 those similarly situated, but all members of the general public.

4 122. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL and/or
5 DOES had no policy that advised Plaintiff and those similarly situated of their right to take
6 a second meal period.

7 123. Defendant ROADRUNNER/CENTRAL CAL and/or DOES thereby failed to provide an
8 additional thirty (30) minute uninterrupted meal period for employees on days where they
9 worked in excess of ten (10) hours.

10 124. Failing to provide compensation for such unprovided or improperly provided meal periods,
11 as alleged above, Defendant ROADRUNNER/CENTRAL CAL and/or DOES willfully
12 violated the provisions of *Labor Code* sections 226.7 and 512, and IWC Wage Order No.
13 9.

14 125. As a result of the unlawful acts of Defendant ROADRUNNER/CENTRAL CAL and/or
15 DOES, Plaintiff and the Class he seeks to represent have been deprived of premium wages
16 in amounts to be determined at trial, and are entitled to recovery of such amounts, plus
17 interest and penalties thereon, attorneys' fees and costs, under *Labor Code* sections 226
18 and 226.7, and IWC Wage Order Nos. 9-1998, 9-2000, and 9-2001. Plaintiff and the Class
19 members he seeks to represent did not willfully waive their right to take meal periods
20 through mutual consent with Defendant and/or DOES.
21

22 126. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described
23 below.

24 **Fourth Cause of Action Against ROADRUNNER/CENTRAL CAL and/or DOES:**
25 **Failure to Authorize and Permit Rest Breaks or Pay Compensation in Lieu Thereof**
26 **(Lab. Code §226.7; IWC Wage Order No. 9; Cal. Code Regs., tit. 8, §11090)**

27 127. Plaintiff and those similarly situated Class members hereby incorporate by reference each
28 and every other paragraph in this Complaint herein as if fully plead.

1 128. Defendant ROADRUNNER/CENTRAL CAL and/or DOES failed to authorize and permit
2 its Non-Exempt Employees to take ten (10) minute rest breaks per every four (4) hours
3 worked or major fraction thereof.

4 129. Defendant ROADRUNNER/CENTRAL CAL and/or DOES failed to provide ten (10)
5 minute paid rest breaks to employees for each four (4) hours worked or major fraction
6 thereof.

7 130. In the alternative, Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' business
8 model was such that Non-Exempt Employees were assigned too much work that could not
9 be reasonably completed in their assigned shift, work and/or route. The end result is that
10 Defendant's and/or DOES' Non-Exempt Employees routinely and regularly are forced to
11 work through their rest breaks.

12 131. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL and/or
13 DOES had a pattern and practice of assigning too much work to be completed in too short
14 of a time frame, which resulted in Plaintiff and those similarly situated not breaking route
15 to take meal and rest breaks.

16 132. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL and/or
17 DOES valued productivity over providing meal and rest breaks and, because of this, meal
18 and rest breaks were not priorities to Defendant and/or DOES.

19 133. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL's and/or
20 DOES' uniform policies and practices resulted said employees not receiving rest breaks.

21 134. Because of Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' demanding
22 policies on route completion times, Plaintiff and those similarly situated felt that breaking
23 route to exercise their rights to take meal or rest breaks would sacrifice their jobs with
24 ROADRUNNER/CENTRAL CAL and/or DOES.

25 135. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL and/or
26 DOES had a pattern and practice of establishing and scheduling routes to be completed in
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1 overly demanding time frames which resulted in Defendant and/or DOES pressuring its
2 Non-Exempt truck drivers, truck drivers, delivery truck drivers, industrial truck workers
3 and/or any similar job designation to complete their routes within the rigorous time frames
4 and not take rest breaks.

5 136. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL and/or
6 DOES had a pattern and practice of establishing and scheduling routes to be completed in
7 overly demanding time frames which resulted in Defendant and/or DOES discouraging its
8 Non-Exempt drivers, truck drivers, delivery truck drivers, industrial truck workers and/or
9 any similar job designation from taking rest breaks.

10 137. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL and/or
11 DOES had a pattern and practice of establishing and scheduling routes to be completed in
12 overly demanding time frames which resulted in Defendant and/or DOES impeding its
13 Non-Exempt drivers, truck drivers, delivery truck drivers, industrial truck workers and/or
14 any similar job designation from taking rest breaks.

15 138. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL and/or
16 DOES had a pattern and practice of establishing and scheduling routes to be completed in
17 overly demanding time frames which resulted in Defendant and/or DOES pressuring its
18 Non-Exempt drivers, truck drivers, delivery truck drivers, industrial truck workers and/or
19 any similar job designation to forego taking rest periods.

20 139. Based on Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' demanding route
21 policies, Plaintiff and those similarly situated routinely worked through their rest breaks,
22 which compromised the health and welfare of, not only the Plaintiff and those similarly
23 situated, but all members of the general public.

24 140. Throughout the statutory period, Defendant ROADRUNNER/CENTRAL CAL and/or
25 DOES had no policy that advised Plaintiff and those similarly situated of their right to take
26 an additional rest period in shifts exceeding ten (10) hours in a day.
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1 141. Thus, Plaintiff and those similarly situated had no way of knowing they were to be
2 authorized and permitted a ten (10) minute rest period when working in excess of ten (10)
3 hours a day.

4 142. By its failure to authorize and permit its Non-Exempt Employees to take rest breaks for
5 every four (4) hours or major fraction thereof worked per day, Defendant
6 ROADRUNNER/CENTRAL CAL and/or DOES willfully violated provisions of *Labor*
7 *Code* section 226.7 and IWC Wage Order Nos. 9-1998, 9-2000, and 9-2001. Plaintiff and
8 the Class members they seeks to represent did not willfully waive their right to take rest
9 breaks through mutual consent with Defendant and/or DOES.

10 143. As a result of the unlawful acts of Defendant ROADRUNNER/CENTRAL CAL and/or
11 DOES, Plaintiff and the Class he seeks to represent have been deprived of premium wages
12 in amounts to be determined at trial, and are entitled to recovery of such amounts, plus
13 interest and penalties thereon, attorneys' fees, and costs, under *Labor Code* sections 226
14 and 226.7, and IWC Wage Orders 9-1998, 9-2000, and 9-2001.

15 144. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described
16 below.

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18 **Fifth Cause of Action Against ROADRUNNER/CENTRAL CAL and/or DOES:**
19 **Knowing and Intentional Failure to Comply with Itemized Employee Wage**
20 **Statement Provisions (Lab. Code §§ 226, 1174, 1175; IWC Wage Order No. 9; Cal.**
21 **Code Regs., Title 8, § 11090)**

22 145. Plaintiff and those similarly situated Class members hereby incorporate by reference each
23 and every other paragraph in this Complaint herein as if fully plead.

24 146. *Labor Code* section 226 subdivision (a) requires Defendant ROADRUNNER/CENTRAL
25 CAL and/or DOES to, inter alia, itemize in wage statements and to accurately report the
26 total hours worked and total wages earned. In addition, Defendant and/or DOES have
27 knowingly and intentionally failed to comply with *Labor Code* section 226, subdivision
28 (a), on each and every wage statement provided to Plaintiff and members of the proposed
Class.

1 147. *Labor Code* section 1174 requires Defendant ROADRUNNER/CENTRAL CAL and/or
2 DOES to maintain and preserve, in a centralized location, records showing the daily hours
3 worked by and the wages paid to its employees. Defendant and/or DOES have knowingly
4 and intentionally failed to comply with *Labor Code* section 1174. The failure of Defendant
5 and/or DOES, and each of them, to comply with *Labor Code* section 1174 is unlawful
6 pursuant to *Labor Code* section 1175.

7 148. Defendant ROADRUNNER/CENTRAL CAL and/or DOES failed to maintain time
8 records - as required by IWC Wage Order Nos. 9-2001(7), 9-2000(7), 9-1998(7) and Cal.
9 Code Regs., Title 8 section 11090 - showing, among other things, when the employee
10 begins and ends each work period and the total daily hours worked in itemized wage
11 statements, total wages, bonuses and/or incentives earned, and all deductions made.

12 149. As a direct result of Defendant ROADRUNNER/CENTRAL CAL's and/or DOES'
13 unlawful acts, Plaintiff and the class he intends to represent have been damaged and are
14 entitled to recovery of such amounts, plus interest thereon, attorneys' fees and costs,
15 pursuant to *Labor Code* section 226.

16 150. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described
17 below.
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19 **Sixth Cause of Action Against ROADRUNNER/CENTRAL CAL and/or DOES:**
20 **Failure to Pay All Wages Due at the Time of Termination from Employment/Waiting**
21 **Time Penalties (California Lab. Code §§ 201-203)**

22 151. Plaintiff and those similarly situated Class members hereby incorporate by reference each
23 and every other paragraph in this Complaint herein as if fully plead.

24 152. *Labor Code* section 203 provides that, if an employer willfully fails to pay, without
25 abatement or reduction, in accordance with *Labor Code* sections 201, 201.5, 202, and
26 205.5, any wages of an employee who is discharged or who quits, the wages of the
27 employee shall continue at the same rate, for up to thirty (30) days from the due date
28 thereof, until paid or until an action therefore is commenced.

1 153. Plaintiff and those members of the proposed class who are former employees of
2 ROADRUNNER/CENTRAL CAL and/or DOES are no longer employed by
3 ROADRUNNER/CENTRAL CAL and/or DOES and are entitled to, but have not received,
4 compensation for all wages owed that ROADRUNNER/CENTRAL CAL and/or DOES
5 did not pay to them.

6 154. When Plaintiff and those members of the class who are former employees of
7 ROADRUNNER/CENTRAL CAL and/or DOES separated from
8 ROADRUNNER/CENTRAL CAL's and/or DOES' employ, Defendant and/or DOES
9 willfully failed to pay all wages, bonuses and/or incentives owed.

10 155. As a consequence of ROADRUNNER/CENTRAL CAL's and/or DOES' willful conduct
11 in not paying wages owed at the time of separation from employment, Plaintiff and
12 members of the proposed class are entitled to thirty (30) days worth of wages as a penalty
13 under *Labor Code* section 203, together with interest thereon and attorneys' fees and costs.

14 156. As a direct result of the unlawful acts of ROADRUNNER/CENTRAL CAL and/or DOES,
15 Plaintiff and the class he intends to represent have been damaged and are entitled to
16 recovery of such amounts, plus interest thereon, attorneys' fees, and costs.

17 157. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described
18 below.

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20 **Seventh Cause of Action Against ROADRUNNER/CENTRAL CAL and/or DOES:**
21 **Violation of Unfair Competition Law (California Bus. & Prof. Code, § 17200, et seq.)**

22 158. Plaintiff and those similarly situated Class members hereby incorporate by reference each
23 and every other paragraph in this Complaint herein as if fully plead.

24 159. Defendant ROADRUNNER/CENTRAL CAL's and/or DOES' failure to pay all wages
25 earned and failure to itemize and keep accurate records, as alleged herein, constitutes
26 unlawful activity prohibited by *California Business and Professions Code* section 17200,
27 et seq.

28 160. The actions of Defendant ROADRUNNER/CENTRAL CAL and/or DOES in failing to

1 pay Plaintiff and members of the Class in a lawful manner, as alleged herein, constitutes
2 false, unfair, fraudulent and deceptive business practices, within the meaning of *California*
3 *Business and Professions Code* section 17200, et seq.

4 161. Plaintiff is entitled to an injunction and other equitable relief against such unlawful
5 practices in order to prevent future damage, for which there is no adequate remedy at law,
6 and to avoid a multiplicity of lawsuits. Plaintiff brings this cause individually and as
7 members of the general public actually harmed and as a representative of all others subject
8 to Defendant's and/or DOES' unlawful acts and practices.

9 162. As a result of their unlawful acts, Defendant ROADRUNNER/CENTRAL CAL and/or
10 DOES have reaped and continue to reap unfair benefits at the expense of Plaintiff and the
11 Class he seeks to represent. Defendant and/or DOES should be enjoined from this activity
12 and made to disgorge these ill-gotten gains and restore them to Plaintiff and the members
13 of the Plaintiff Class pursuant to *Business and Professions Code* section 17203. Plaintiff is
14 informed and believes, and thereon alleges, that Defendant and/or DOES are unjustly
15 enriched through their policy of not paying all wages owed to Plaintiff and members of the
16 proposed class.

17 163. Plaintiff is informed and believes, and thereon alleges, that Defendant's and/or DOES'
18 unfair trade practices prejudice Plaintiff and members of the proposed class.

19 164. As a direct and proximate result of the unfair business practices of Defendant
20 ROADRUNNER/CENTRAL CAL and/or DOES, and each of them, Plaintiff, individually
21 and on behalf of all employees similarly situated, are entitled to equitable and injunctive
22 relief, including full restitution and/or disgorgement of all wages and premium pay which
23 have been unlawfully withheld from Plaintiff and members of the Class as a result of the
24 business acts and practices described herein and enjoining Defendant and/or DOES from
25 engaging in the practices described herein.

26 165. The illegal conduct alleged herein is continuing, and there is no indication that Defendant
27
28

1 ROADRUNNER/CENTRAL CAL and/or DOES will cease and desist from such activity
2 in the future. Plaintiff alleges that if Defendant and/or DOES are not enjoined from the
3 conduct set forth in this Complaint, they will continue the unlawful activity discussed
4 herein.

5 166. Plaintiff further requests that the Court issue a preliminary and permanent injunction
6 prohibiting Defendant ROADRUNNER/CENTRAL CAL and/or DOES from continuing
7 to not pay Plaintiff and the members of the proposed Class overtime wages as discussed
8 herein.

9 167. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described
10 below.

11 **Eighth Cause of Action Against ROADRUNNER/CENTRAL CAL and/or DOES:**
12 **Violations of the Private Attorneys General Act of 2004 (“PAGA”) (Labor Code**
13 **§2698 et seq.)**

14 168. Plaintiffs and those similarly situated Class members hereby incorporate by reference each and
15 every other paragraph in this Complaint herein as if fully plead.

16 169. Plaintiffs, by virtue of their employment with Defendant, and Defendant’s failure to provide
17 meal and rest periods, overtime compensation, all wages for all work performed at the statutory
18 minimum agreed upon rate, and all wages due at termination, are aggrieved employees with
19 standing to bring an action under the Private Attorney General Act (“PAGA”). Plaintiffs, as
20 representatives of the people of the State of California, will seek any and all penalties otherwise
21 capable of being collected by the Labor Commission and/or the Department of Labor Standards
22 Enforcement (DLSE). This includes each of the following, as set forth in Labor Code Section
23 2699.5, which provides that Section 2699.3(a) applies to any alleged violation of the following
24 provisions: Sections 201 through 203, 204, 205.5, 221, 222, 223, 226, 226.7, 510, 512, 558,
25 1174, 1194, 1197, 1197.1, 1199, and 2802.

26 170. Plaintiffs are informed and believes that Defendant has violated and continues to violate
27 provisions of the California Labor Code and applicable Wage Orders related to meal and rest
28 periods, overtime compensation, wages for all work performed, all wages due at termination,

1 and reimbursement for expenses incurred during employment.

2 171. Plaintiffs, as personal representatives of the general public, will and do seek to recover any and
3 all penalties for each and every violation shown to exist or to have occurred during the one-
4 year period of filing this action, in an amount according to proof, as to those penalties that are
5 otherwise only available to public agency enforcement actions. Funds recovered will be
6 distributed in accordance with PAGA, with at least 75% of the penalties recovered being
7 reimbursed to the State of California and the Labor and Workforce Development Agency
8 (LWDA).

9
10 **V. PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff prays for judgment as follows:

- 12 1. That the Court determine that this action may be maintained as a Class action;
- 13 2. For compensatory damages, in an amount according to proof at trial, with interest
14 thereon;
- 15 3. For economic and/or special damages in an amount according to proof with interest
16 thereon;
- 17 4. For unpaid wages, in an amount according to proof at trial, with interest thereon;
- 18 5. For all monies for the violations of *California Labor Code* section 226.7;
- 19 6. For damages and/or monies owed for failure to comply with itemized employee
20 wage statement provisions;
- 21 7. For all waiting time penalties owed;
- 22 8. That Defendant be found to have engaged in unfair competition in violation of
23 sections 17200 et seq. of the *California Business and Professions Code*;
- 24 9. That Defendant be ordered and enjoined to make restitution to the class due to their
25 unfair competition, including disgorgement of their wrongfully withheld wages
26 pursuant to *California Business and Professions Code* sections 17203 and 17204;
- 27 10. That an order of specific performance of all penalties owed be issued under
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California Business and Professions Code sections 17202;

- 11. That Defendant be enjoined from continuing the illegal course of conduct, alleged herein;
- 12. That Defendant further be enjoined to cease and desist from unfair competition in violation of section 17200 et seq. of the *California Business and Professions Code*;
- 13. That Defendant be enjoined from further acts of restraint of trade or unfair competition;
- 14. For attorneys' fees;
- 15. For interest accrued to date;
- 16. For costs of suit and expenses incurred herein; and
- 17. For such other and further relief as the Court deems just and proper.

Dated: April __, 2018

THE TURLEY & MARA LAW FIRM, APLC



William Turley, Esq.
Dave Mara, Esq.
Representing Plaintiff LEONARDO MOTTA
on behalf of himself, all others similarly situated,
and on behalf of the general public.