

1 CHAVEZ was not paid for all hours worked, was told to clock-out from work while he continued to
2 suffer and provide benefits to Defendants.

3 2. Plaintiff was a non-exempt employees working in the position of personal trainer and as such
4 he should have been provided with all sick pay and/or paid time off (“PTO”) at his regular rate of pay.
5 Instead, Defendants paid him the San Francisco minimum wage for all sick pay and/or PTO.
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7 3. Plaintiffs are ignorant of the true names and capacities of defendants sued herein as Does 1
8 through 100, and therefore sues these defendants by such fictitious names. Plaintiffs will amend this
9 Complaint to allege their true names and capacities when ascertained. Plaintiffs are informed and
10 believes, and therefore alleges, that each of the fictitiously named defendants is responsible in some
11 manner for the occurrences herein alleged. Plaintiffs will amend his complaint to add members of the
12 executive team, owners, and shareholders as permitted under Labor Code 588.1.
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14 4. Defendant CRUNCH, LLC, (hereinafter “CRUNCH” or “Defendant”) is a Corporation with its
15 principal place of business in the State of New York and does business throughout California,
16 including San Francisco County. CRUNCH is in the business of owning and operating gymnasiums
17 and providing fitness related products to the general public. CRUNCH is an “employer” as defined by
18 the Labor Code and applicable IWC Wage Order(s).
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20 5. This Court has jurisdiction over the state law claims asserted here pursuant to the Class Action
21 Fairness Act, 28 U.S.C. § 1332(d)(2)(A), since 1) Plaintiff is a California citizen and Defendants are
22 citizens of different states, 2) there are more than 100 putative plaintiff class members and 3) the amount
23 in controversy exceeds \$5,000,000.
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25 **CLASS ACTION ALLEGATIONS**

26 6. Plaintiff sues, on behalf of himself and all others similarly situated, as a class action under
27 Federal Rule of Civil Procedure 23 on behalf of a Class consisting of all current and former employees
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1 who worked in the position of “Personal Trainer” of Defendants in the State of California within the four
2 years preceding the filing of this complaint until final judgment.

3 7. Defendants failed to timely pay Plaintiff and Class Members all wages earned at time of
4 their termination. Defendants also implemented a policy of forcing Plaintiffs and Class members to
5 work off the clock as well as failing to pay them all minimum wages and overtime wages earned.
6 Defendants were also unlawfully paying trainers sick pay and/or PTO at the minimum rate of pay. As a
7 proximate result, Plaintiffs and Class members suffered damages during all applicable statutes of
8 limitations (the “Class Period”).
9

10 8. Within the foregoing class, Plaintiffs seeks to ascertain and represent the following
11 subclasses including but not limited to: (a) All Personal Trainers who were terminated from their
12 employment with Defendants and all Personal Trainers who resigned from their employment with
13 Defendants within three years preceding the filing of this complaint until final judgment; (b) All
14 Personal Trainers who worked for Defendants in the City of San Francisco, California who received paid
15 sick leave within four years preceding the filing of this complaint until final judgment; (c) All Personal
16 Trainers who worked more than 8 hours a day for Defendants within the four years preceding the filing
17 of this complaint until final judgment; (d) All Personal Trainers who worked split shifts for Defendants
18 within the four years preceding the filing of this complaint until final judgment; (e) All Personal Trainers
19 who received itemized wage statements from Defendants within one year preceding the filing of this
20 complaint until final judgment; (f) All Personal Trainers who worked more than four hours in a shift for
21 Defendants within four years preceding the filing of this complaint until final judgment; (g) All
22 Personal Trainers who worked more than five hours in a shift for Defendants within four years preceding
23 the filing of this complaint until final judgment; (h) All Personal Trainers who received vacation pay
24 and/or PTO from Defendants within four years preceding the filing of this complaint until final
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1 judgment; (i) All Personal Trainers who worked “off the clock” for Defendants within four years
2 preceding the filing of this complaint until final judgment.

3 9. The wrongful acts or omissions were and are a uniform practice that affected all putative class
4 members equally. Defendants, by their practices and policies, have violated the rights of their
5 employees under the California Labor Code, and the Unfair Competition Law. The questions raised are
6 therefore of common or general interest to the class members, and they have a well-defined community
7 of interest in the questions of law and fact raised in this action. The only recognizable difference
8 between class members will be the total amounts owed to each individual member.
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11 10. Based on information and belief, Defendants have employed a large number of individuals in the
12 State of California (a number known particularly to Defendants) since the beginning of the Class Period.
13 These individuals have been subject to Defendants’ unlawful and wrongful practices, and their
14 numerosity makes it impractical to bring them all before this forum, and disposition of their claims in a
15 class action is a benefit to the parties and to the court.
16

17 11. A class action is superior to other available means for the fair and efficient adjudication of this
18 controversy. Individual joinder of all class members is not practicable, and questions of law and fact
19 common to the class predominate over any questions affecting only individual members of the class.
20 Each member of the class has been damaged and is entitled to recover. Class action treatment will allow
21 those similarly situated persons to litigate their claims in the manner that is most efficient and
22 economical for the parties and the judicial system.
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25 12. A class action is appropriate since Plaintiffs and class members’ damages, although by no means
26 inconsequential, do not rise to the level to make prosecution of individual claims economically feasible
27 for Plaintiffs and class members to pursue. The burden and expense of individual litigation makes it
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1 economically unfeasible for the members of the class to seek redress other than through a class action.
2 Consequently, there would be a failure of justice but for the maintenance of the present class action.

3
4 13. The defenses of Defendants, if such defenses apply, are applicable to the whole class and are not
5 distinguishable as to the proposed class members.

6
7 14. The prosecution of individual remedies by members of the class would tend to establish
8 inconsistent standards of conduct for the Defendants and would result in the impairment of class
9 members' rights and the disposition of their interests through actions to which they were not parties.

10
11 15. Plaintiffs know of no difficulty which will be encountered in the management of this litigation
12 which would preclude its maintenance as a class action.

13
14 16. Plaintiffs and members of the class have incurred and, during the pendency of this action, will
15 incur attorneys' fees and expenses. Such attorneys' fees and expenses are necessary for the prosecution
16 of this action and will result in a benefit to the class.

17
18 17. Upon information and belief, Defendants were aware of the facts herein alleged at the time they
19 failed to perform the duties alleged herein.

20
21 18. The names and addresses of the persons who are members of the class are available from
22 Defendants' records and are therefore known to Defendants. Notice can be provided to the member of
23 the class by mail, or such other methods of notice as deemed appropriate by the Court, with the costs of
24 any notice to be borne by Defendants.

25
26 19. Defendants fail(ed) to pay split shift premiums in violation of Wage Order paragraph 4(c)
27 Defendants routinely failed and fail to pay employees working split shifts (*i.e.* work schedules
28 interrupted by non-paid non-working periods established by the employer, other than *bona fide* meal
periods) one hour's pay at the minimum wage in addition to the minimum wage for hours worked that

1 day. Employees are and were at times scheduled to work multiple shifts in the same day, with an unpaid,
2 non-working break of longer than an hour between the shifts. Additionally, at times Defendants required
3 and require employees to attend meetings that both began and ended hours before the employees' shifts
4 began.

5
6 20. **Defendants** fail(ed) to pay all earned wages (including overtime compensation, wages for off-
7 the-clock work, reporting time pay, split shift premiums, and premium pay for missed meal and rest
8 breaks) at least twice a month in violation of Labor Code section 204. As described above, Defendants
9 systematically failed and refused to pay all overtime compensation, minimum wages, and premium pay
10 owed to their employees and required or knowingly permitted employees to perform work off the clock
11 and without compensation. Defendants also failed to pay Plaintiff and Class Members with the correct
12 overtime rate and hourly rate for sick pay and/or PTO. As such, although the employees received pay
13 every two weeks, their wages were not timely paid in full, as required by the statute.

14
15 21. **Defendants** willfully fail(ed) to pay all earned wages (including overtime compensation, wages
16 for off-the-clock work, reporting time pay, split shift premiums, and premium pay for missed meal and
17 rest breaks) at the time of an employee's termination or within 72 hours of an employee's resignation in
18 violation of Labor Code sections 201, 202, 203, and 206. For the reasons stated in the immediately
19 preceding paragraph, the employees' earned wages were not timely paid in full following their
20 separation from Defendants.

21
22 22. Plaintiffs and the entire Class have been, and/or still are, required to forego meal and rest periods
23 as a term and condition of their employment.

24
25 23. The Defendants' unlawful acts and unfair trade practices have affected all members of the Class
26 in a similar manner, i.e., all members of the Class have been unlawfully forced to work off the clock,
27 have payroll records altered and not paid all wages according to statute. As a proximate result, Plaintiffs
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1 and Class members suffered damages. In addition, Defendants have failed to maintain accurate records
2 of hours worked by employees. Among the questions of law and fact common to the Class are:

- 3
- 4 (a) Whether Defendants violated California wage laws as to Plaintiffs and Class Members.
- 5 (b) Whether Defendants forced Plaintiffs and Class members to work off the clock.
- 6 (c) Whether Defendants violated California overtime wage laws as to Plaintiffs and Class Members.
- 7 (d) Whether Defendants have unlawfully failed to maintain pay records of Plaintiffs and Class
8 members, in violation of the California Labor Code and applicable wage order.
- 9 (e) Whether Defendants have violated California law, including California’s Unfair Competition
10 laws (Business & Professions Code §§ 17200, et seq.), and/or California Labor Code § 226.7.
- 11 (f) Whether Plaintiffs and class members are owed waiting time penalties for Defendants’ failure to
12 pay all wages owed upon discharge or resignation.
- 13 (g) Whether Defendants violated the California Labor Code by failing to pay reporting time pay and
14 split shift premiums;
- 15 (h) Whether Defendants violated the California Labor Code by failing to provide Class members
16 with meal and rest breaks;
- 17 (i) Whether Defendants violated the California Labor Code by failing to pay Class members
18 premium pay for missed or untimely meal periods and/or missed rest periods;
- 19 (j) Whether Defendants violated the California Labor Code by failing to provide accurate itemized
20 wage statements to Class members containing all information required under California Labor
21 Code Section 226;
- 22 (k) Whether Defendants violated the California Labor Code by failing to keep accurate records of
23 the time worked by Class members, and by failing to provide accurate itemized wage statements
24 of SICK PAY earnings;
- 25 (l) Whether Defendants violated the California Labor Code by failing to pay Class member PTO at
26 class members’ regular rate of pay;
- 27 (m) Whether Defendants violated the San Francisco’s Paid Sick Leave Ordinance by failing to pay
28 Class members SICK PAY at class members’ regular rate of pay;

24. Defendants did not keep accurate payroll records as required by California law. Defendants
fail(ed) to keep accurate records in violation of California Labor Code Section 226 and Wage Order
paragraph 7(A). Because Defendants require their employees to work off the clock, and because they
alter employee time records and failed to pay all split shift premiums, reporting time pay, meal period
premium pay, and rest break premium pay, they fail(ed) to maintain and provide Plaintiff and class
members with itemized wage statements containing accurate information of all applicable hourly rates in
effect during the pay period and the corresponding number of hours worked at each hourly rate,

1 overtime rates, gross wages, net wages, and total hours worked by each employee. Defendants fail(ed)
2 to maintain accurate information concerning the correct accrual of SICK PAY and the correct rate of pay
3 of SICK PAY and PTO pay. Defendants also failed to provide Plaintiff and class members with itemized
4 wage statements containing the correct hourly rates for sick pay and/or PTO and therefore, also failed to
5 provide itemized wage statements listing the accurate amount of gross and net wages earned during the
6 pay period.
7

8 25. Plaintiff's claims are typical of those of the Class he seeks to represent because Plaintiffs and all
9 members of the Class were injured and/or continue to be injured in the same manner by Defendants'
10 illegal acts and practices, and other wrongful conduct complained of herein.
11

12 26. Plaintiffs will fully and adequately protect the interests of all members of the Class. Plaintiffs
13 have retained counsels who are experienced in class action litigation. Plaintiffs have no interests that are
14 adverse to or in conflict with other members of the Class.
15

16 **FACTS APPLICABLE TO ALL CAUSES OF ACTION**

17 27. CHAVEZ was an employee of CRUNCH and held the position of Personal Trainer. CHAVEZ
18 started his employment on or around August 2015.
19

20 28. . At the time Defendant terminated CHAVEZ's employment, Defendant had an obligation to
21 ensure that CHAVEZ was paid all wages owed. CHAVEZ was not paid all wages owed. CHAVEZ
22 and all Class Members who have stopped working for CRUNCH are owed waiting time penalties.
23 Plaintiffs and Class Members pay would fluctuate based on the following factors: 1. if working with a
24 client during a personal training session Plaintiffs and Class Members would earn bonuses; 2. type of
25 personal training session sold would determine the amount of said bonus. Plaintiffs and Class
26 Members would earn \$23 - \$63 per an hour if performing personal training and minimum wage for all
27 other hours compensated.
28

1 29. CRUNCH maintained control, oversight, and direction over Plaintiffs and Class Members
2 (other personal trainers), during his scheduled shifts.

3 30. CRUNCH in essence failed to compensate Plaintiffs and Class Members for all hours worked.

4 31. **Upon information and belief, Crunch, LLC fail to provide Plaintiffs, and persons in their**
5 **employment with meal and rest periods. Defendants' policies and practices towards its employees**
6 **violate California Labor Code § 226.7, which provides:**

7
8 (a) **No employer shall require any employee to work during any meal or rest period**
9 **mandated by an applicable order of the Industrial Welfare Commission.**

10 (b) **If an employer fails to provide an employee a meal period or rest period in**
11 **accordance with an applicable order of the Industrial Welfare Commission, the employer**
12 **shall pay the employee one additional hour of pay at the employee's regular rate of**
13 **compensation for each work day that the meal or rest period is not provided.**

14 32. Plaintiffs and Class Members allege that CRUNCH routinely and systematically failed to
15 compensate them for all hours worked. CRUNCH implemented a policy of coercing its Personal
16 Trainers of working off the clock. CRUNCH, to implement its policy of wage theft, failed to keep true
17 and accurate time records for all hours worked by Plaintiffs and Class Members. Plaintiffs and Class
18 Members, in fact, would have time cards altered by management to reduce the number of hours
19 worked.
20

21 33. CRUNCH also expected Plaintiffs and Class Members to work off the clock and implemented
22 a policy of having all personal trainers' clock out after each personal training session.

23 34. As a result of CRUNCH's intentional and deliberate violations of California wage and hour
24 laws, Plaintiffs and Class Members were damaged by having wages, including overtime
25 compensation, withheld from them. CHAVEZ estimates, without the ability to audit his hours, that he
26 worked approximately 1000 hours per year that he was not compensated. CHAVEZ estimates,
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1 without the ability to audit his hours, that he worked approximately 600-1000 hours per year that went
2 uncompensated.

3 35. Plaintiff and Class Members were also forced to work multiple hours without compensation
4 which resulted in them receiving less than the minimum wage.
5

6 36. Plaintiff and Class Members allege that CRUNCH routinely and systematically fail(ed) to
7 maintain accurate information concerning the correct accrual of SICK PAY and the correct rate of pay
8 of SICK PAY and PTO pay.

9 37. Plaintiff was laid-off on April 1, 2020.
10

11 **FIRST CAUSE OF ACTION**
12 **For Willful Violations of California Labor Code §§ 1194 (a), 510 and 204 –**
13 **Failure to Pay All Wages and Overtime Under California Law**
14 **(Against All Defendants)**

15 38. Plaintiffs and Class Members repeat and reallege the preceding and subsequent
16 paragraphs as though set forth herein.

17 39. Under California law, the Defendants were required to pay wages for each hour worked,
18 and overtime wages when non-exempt employees work over 8 hours in a day or 40 hours in a week by
19 calculating the hourly rate and then computing the overtime premium amount owed. Plaintiffs and Class
20 Members have worked for Defendants without being paid for all hours worked, regular and overtime.

21 40. As a result of the Defendants' violation of statutory duties to comply with statutory wage
22 requirements, as more fully set forth above, Plaintiffs and Class Members were damaged in an amount
23 above the jurisdictional limits of this Court.

24 41. Defendants had a policy and practice of not including all wages, earnings, commissions
25 and bonuses in the calculation of overtime. This resulted in Plaintiffs being underpaid for all hours
26 worked.

27 42. Plaintiffs and Class Members seek as damages all wages owed to Plaintiffs and Class
28 Members by the Defendants.

1 43. Plaintiffs and Class Members are entitled to, and therefore request, an award of pre-
2 judgment interest on the unpaid wages set forth herein.

3 44. Plaintiffs and Class Members have incurred, and will continue to incur attorneys' fees
4 and costs in the prosecution of this action. Plaintiffs and Class Members seek attorneys' fees under all
5 applicable provisions of law. Wherefore, Plaintiffs prays judgment as set forth herein below.

6 **SECOND CAUSE OF ACTION**
7 **For Willful Violations of Labor Code § 226**
8 **(Against All Defendants)**

9 45. Plaintiffs and Class Members repeat and reallege the preceding and subsequent
10 paragraphs as though set forth herein.

11 46. The Defendants knowingly and intentionally failed to maintain accurate pay
12 records, failed to provide accurate wage statements, and failed to allow plaintiffs and Class
13 Members to inspect pay records upon request, in violation of California Labor Code § 226.

14 47. Under Labor Code section 226(a), "every employer shall, semimonthly or at the
15 time of each payment of wages, furnish each of his or her employees, either as a detachable part
16 of the check, draft, or voucher paying the employee's wages, or separately when the wages are
17 paid by personal check or cash, an accurate itemized statement in writing showing (1) gross
18 wages earned, (2) total hours worked by the employee, except for an employee whose
19 compensation is solely based on salary and who is exempt from payment of overtime under
20 subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission . . .
21 (5) net wages earned... and (9) all applicable hourly rates in effect during the pay period and the
22 corresponding number of hours worked at each hourly rate by the employee."

24 48. An employee suffering injury as the result of a knowing and intentional failure by an employer to
25 comply with Labor Code section 226(a) may recover the greater of all actual damages or fifty dollars
26 (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee
27 for each violation in a subsequent pay period, not to exceed the aggregate penalty of four thousand
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1 dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees. Labor Code §
2 226(e)(1).

3 49. An employee is deemed to suffer injury if the employer fails to provide a wage statement or if
4 the employer fails to provide accurate and complete information as required by any one or more items
5 (1) through (9), inclusive, of subdivision (a) of Labor Code section 226 and the employee cannot
6 promptly and easily determine from the wage statement alone one or more of the following: (i) the
7 gross wages or net wages paid to the employee during the pay period or any of the other information
8 required to be provided on the itemized wage statement under items (2) to (4), inclusive, (6), and (9) of
9 subdivision (a); (ii) which deductions the employer made from gross wages to determine the net wages
10 paid to the employee during the pay period; (iii) the name and address of the employer and, if the
11 employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address
12 of the legal entity that secured the services of the employer during the pay period; and (iv) the name of
13 the employee and only the last four digits of his or her social security number or an employee
14 identification number other than a social security number. Labor Code § 226(e)(2)(A), (e)(2)(B)(i)-(iv).
15 “Promptly and easily determine” means a reasonable person would be able to readily ascertain the
16 information without reference to other documents or information. Labor Code § 226(e)(2)(C).
17

18 50. During the relevant time period(s), Defendants failed to provide accurate and complete itemized
19 wage statements to Plaintiff and other former and current employees of Defendants, in violation of
20 Labor Code section 226(a).
21

22 51. WC Wage Order No. 2-2001 paragraph 7 provides additionally, in pertinent part,
23 as follows: Every employer shall keep accurate information with respect to each employee
24 including the following: * * * (3) Time records showing when the employee begins and ends
25 each work period. Meal periods, split shift intervals and total daily hours worked shall also be
26 recorded. . . . (5) Total hours worked in the payroll period and applicable rates of pay. * * * Every
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1 employer shall semimonthly or at the time of each payment of wages furnish each employee ...
2 an itemized statement in writing showing: (1) all deductions...

3 52. Defendants have violated the above Labor Code section and Wage Order with
4 respect to Plaintiff and the Class members by failing to keep accurate time records showing all
5 hours worked, overtime rates, rates of pay for paid sick leave, rates of pay for PTO, rates of pay
6 for vacation pay, and failing to provide Plaintiff and class members with accurate itemized
7 statements of their gross wages, net wages, all applicable hourly rates in effect during the pay
8 period and the corresponding number of hours worked at each hourly rate by the employee,
9 hourly rates for sick pay, hourly rates for PTO, total hours worked, and the amounts lawfully
10 deducted from wages.

11 53. As a direct result of the Defendants failure, Plaintiffs and Class Members were
12 injured and are entitled to recover an amount to be proved at trial.

13 54. Plaintiffs and Class Members are entitled to statutory penalties and attorneys' fees
14 pursuant to Labor Code § 226 and California Code of Civil Procedure § 1021.5. Wherefore,
15 Plaintiffs and Class Members prays judgment as set forth herein below.
16

17 **THIRD CAUSE OF ACTION**
18 **FAILURE TO PAY MINIMUM WAGE-VIOLATIONS OF CALIFORNIA**
19 **LABOR CODE SECTIONS 1194(a), 1194.2, AND 1197**
20 **(Against all Defendants)**

21 55. Plaintiffs and Class Members repeat and reallege the preceding and subsequent paragraphs as set
22 forth herein.

23 56. Cal. Lab. Code §1194(a) provides: Notwithstanding any agreement to work for a lesser wage, any
24 employee receiving less than the legal minimum wage or the legal overtime compensation applicable to
25 the employee is entitled to recover in a civil action the unpaid balance of the full amount of this
26 minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and
27 costs of suit. Cal. Lab. Code §1197 provides, "the minimum wage for employees fixed by the
28 commission is the minimum wage to be paid to employees, and the payment of a less the minimum so

1 fixed is unlawful." Cal. Lab. Code §1194.2 provides in relevant part that: "In any action under...Section
2 1194 to recover wages because of a payment of wage less than the minimum wage fixed by an order of
3 the commission, an employee shall be entitled to recover liquidated damages in an amount equal to the
4 wages unlawfully unpaid and interest thereon."
5

6 57. As a result Plaintiffs and Class Members suffered damages and are entitled to wages due him,
7 liquidated damages, and attorneys' fees under all applicable provisions of law.

8 **FOURTH CAUSE OF ACTION**
9 **For Willful Violations of California Labor Code §§ 201, 202, 203, and 203.1 –**
10 **Failure to Pay all Owed Wages Upon Discharge or Quitting;**
11 **Waiting Time Penalties**
12 **(Against All Defendants)**

13 58. Plaintiffs and Class Members repeat and reallege the preceding and subsequent paragraphs as
14 though set forth herein.

15 59. At all times relevant, Plaintiffs and the Class members were covered by the provisions of
16 California Labor Code §§ 201 and 202 require Defendants to pay their employees all wages due
17 immediately upon discharge or 72 hours after an employee quits, and/or when the wages became due at
18 the end of each pay period (for all overtime hours worked). California Labor Code § 203 provides that
19 if an employer willfully fails to timely pay such wages the employer must, as a penalty, continue to pay
20 the subject employees' wages until the back wages are paid in full or an action is commenced. The
21 penalty cannot exceed 30 days of wages
22

23 60. At all times relevant, Plaintiff and the Class members were covered by the provisions of
24 California Labor Code §§ 201 and 202 require Defendants to pay their employees all wages due
25 immediately upon discharge or 72 hours after an employee quits, and/or when the wages became due at
26 the end of each pay period (for all minimum wages, overtime wages, split shift premiums, meal period
27 premium pay, rest break premium pay, SICK PAY, vacation pay, and/or PTO wages). California Labor
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1 Code § 203 provides that if an employer willfully fails to timely pay such wages the employer must, as a
2 penalty, continue to pay the subject employees' wages until the back wages are paid in full or an action
3 is commenced. The penalty cannot exceed 30 days of wages
4

5 61. Plaintiffs and Class members are entitled to unpaid compensation, but to date have not received
6 such compensation. Defendants failed to pay Plaintiffs and Putative Class members' earned wages on
7 the date of the termination in the case of a discharge or a voluntary quit with more than 72 hours prior
8 notice, or within 72 hours of the termination of the employment relationship in the case of a voluntary
9 quit without such prior notice.
10

11 62. Plaintiffs and Class members' wages should never have been deducted and they should never
12 have been forced to work off the clock. Defendants failed to return Plaintiffs and Class members'
13 improperly deducted wages on or before the date of Class Members resignation or termination.
14 Defendants failed to return to Plaintiffs and Class members' improperly deducted wages on the date of
15 the termination in the case of a discharge or a voluntary quit with more than 72 hours prior notice, or
16 within 24 hours of the termination of the employment relationship in the case of a voluntary quit without
17 such prior notice. As a consequence of Defendants' willful conduct in not paying compensation for all
18 hours worked, Plaintiffs and Class members are entitled to 30 days wages as penalty under Labor Code
19 § 203 & Industrial Welfare Commission Order No. 2-2001 together with interest thereon and attorneys'
20 fees and costs. Wherefore, Plaintiffs prays judgment as set forth herein below.
21
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23
24 **FIFTH CAUSE OF ACTION**
25 **For Violations of California Business and Professions Code Sections 17200, et seq.**
26 **Based Upon Defendants' Unfair Business Acts and Practices**
27 **(Against All Defendants)**
28

63. Plaintiffs and Class Members repeats and reallege the preceding and subsequent paragraphs as though set forth herein.

1 64. Plaintiffs and Class Members further brings this action pursuant to the Business
2 and Professions Code Sections 17200, et seq., seeking restitution for monies owed for regular
3 and overtime wages.

4 65. The Unfair Competition Law prohibits all unfair competition, which is defined
5 as "any unlawful, unfair or fraudulent business act or practice." Plaintiffs have standing to bring
6 this claim because he is a direct victim of the Defendants illegal and unfair business practices,
7 which Defendants engaged in for their sole financial benefit.

8 66. Defendants, and each of them, are "persons" as defined under Business and
9 Professions Code § 17201. Each of the directors, officers, and/or agents of Defendants, and each
10 of them, are equally responsible for the acts of the other directors, officers, employees and/or
11 agents as set forth in the Business and Professions Code § 17095.

12 67. Plaintiffs bring this action in the interest of the public pursuant to § 17203 of the
13 California Business and Professions Code. Plaintiffs bring this cause of action seeking
14 restitution for the Defendants failure to pay Plaintiffs and Class Members regular and overtime
15 wages and failing to pay all wages owed upon termination or resignation.

16 68. Plaintiffs and Class Members brings this action to pursue claims during a 4-year
17 statute of limitations under § 17208 of the California Business and Professions Code.

18 69. The following practices of Defendants, and each of them, are unlawful and unfair
19 business practices under California Business and Professions Code §§ 17200 et seq.:

- 20
- 21 (a) failure to pay all regular and overtime wages, in violation of the California
 - 22 Labor Code and all other applicable laws;
 - 23 (b) failure to maintain accurate pay records, and make those records available
 - 24 for inspection upon request by employees;
 - 25 (c) failure to comply with California minimum wage laws;
 - 26 (d) failure to pay all wages upon termination or resignation;
 - 27 (e) unjust enrichment due to the failure to pay wages, including overtime
 - 28 wages.

- 1 (f) miscalculation of employees Overtime Wage Rate: failed to include all sales
- 2 commissions, bonus rate of pay, varying wage rates and other wages in the
- 3 calculation of Plaintiffs and California class members' overtime rate;
- 4 (g) failure to provide rest breaks and meal periods pursuant to the California
- 5 Labor Code and IWC wage orders;
- 6 (h) failed to pay reporting time pay and split shift premiums;
- 7 (i) violating the California Labor Code by failing to pay Class member PTO at
- 8 class members regular rate of pay;
- 9 (j) violating the San Francisco's Paid Sick Leave Ordinance by failing to pay
- 10 Class member SICK PAY at class members' regular rate of pay;
- 11
- 12

13 70. At all times material to this action, the defendants conduct described above is an unfair,
14 unlawful, and/or fraudulent business practice in violation of California Business & Professions Code §§
15 17200 et seq.

16 71. As alleged hereinabove, the defendants have inequitably and unlawfully conspired, agreed,
17 arranged and combined to violate California labor laws, as alleged herein.

18 72. As set forth below, Plaintiffs and Class Members are informed and believe and thereupon allege,
19 that by failing to pay wages to Plaintiffs and Class Members, Defendants have engaged in business
20 within the State of California in a manner that injured competitors, lead to misrepresentations to the
21 public about the manner in which Defendants engaged in business, and/or destroyed competition in
22 violation of Business and Professions Code § 17043. Upon information and belief, Plaintiffs alleges that
23 Defendants engaged in the acts and omissions heretofore alleged for the purpose of profiting from lower
24 labor costs, and obtaining an unlawful or unfair advantage, all in a scheme to engage in unfair
25 competition, at the expense of their employees and to the detriment of public policy for the lawful
26 employment of employees.
27
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1 73. Pursuant to Business and Professions Code §§ 17071 and 17075, the failure of Defendants, and
2 each of them, to pay all wages, including overtime wages, is admissible as evidence of Defendants'
3 intent to violate the California Unfair Practices Act.

4 74. As a direct and proximate result of the unfair, unlawful, and/or fraudulent business practices
5 alleged herein, Plaintiffs and Class Members have been denied due wages, both regular and overtime, all
6 to their detriment and all to the defendant's illegal economic advantage.

7 75. As a direct and proximate result of the unfair, unlawful, and/or fraudulent business practices
8 alleged herein, Plaintiff and Class Members have been denied due wages, both SICK PAY, vacation
9 pay, and/or PTO, all to their detriment and all to the defendant's illegal economic advantage.

10 76. Plaintiff is informed and believe and thereon allege that the Defendants, and each of them, by
11 committing the above-described acts, have deceived the public by illegally depriving Plaintiff and Class
12 Members SICK PAY and PTO wages thus injuring its employees.

13 77. Plaintiffs are informed and believe and thereon allege that the Defendants, and each of them, by
14 committing the above-described acts, have deceived the public by illegally depriving Plaintiffs and Class
15 Members regular and overtime wages thus injuring its employees.

16 78. Business and Professions Code provides that the Court may restore to an aggrieved party any
17 money or property acquired by means of unlawful and unfair business practices. Plaintiffs and Class
18 Members seek restitution of all unpaid wages owing to him and members of the general public,
19 according to proof, that the Defendants have enjoyed as a result of the unfair business practices.

20 79. Business and Professions Code § 17202 states: "Notwithstanding Section 3369 of the Civil Code,
21 specific or preventive relief may be granted to enforce a penalty, forfeiture, or penal law in a case of
22 unfair competition."

23 80. In addition to restoration of all wages owed, Plaintiffs and Class Members seek to enforce
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1 penalties in the interest of themselves and in the interest of other employees of Defendants, and each of
2 them, and in the interest of the general public pursuant to § 17202:

- 3 a. waiting time penalties (Labor Code § 203);
- 4 b. failure to maintain and make available for inspection accurate pay records
5 (Labor Code § 226)

6
7 81. Unless equitable relief is granted, Plaintiffs and others similarly situated will continue to be
8 subjected to Defendants' illegal conduct. Pursuant to Business and Professions Code §§ 17203, plaintiffs
9 seeks a permanent injunction enjoining Defendants' continuing violations of California's Unfair
10 Competition Law on the grounds that such acts described herein violate § 17200 of the Business and
11 Professions Code and California's public policy. Wherefore, Plaintiff prays judgment as set forth herein
12 below.

13
14 **SIXTH CLAIM FOR RELIEF**
15 **SPLIT SHIFT PREMIUM PAY**
16 **(Wage Order No. 2-2001 ¶ 4)**
17 **(Against All Defendants)**

18 82. Plaintiff, on her own behalf and on behalf of the Class members, incorporates the above
19 allegations as if fully set forth herein

20 83. Paragraph 2(M) of the Wage Order defines "split shift" as a work schedule which is interrupted
21 by non-paid non-working periods established by the employer, other than bona fide rest or meal
22 periods." Paragraph 4(C) requires that "[w]hen an employee works a split shift, one hour's pay at the
23 minimum wage shall be paid in addition to the minimum wage for that workday.

24 84. As alleged above, Defendants routinely scheduled employees, including Plaintiff to work
25 multiple shifts in the same day.

26 //

SEVENTH CLAIM FOR RELIEF REPORTING TIME PAY
(Wage Order No. 2-2001 ¶ 5)
(Against All Defendants)

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2
3 85. Plaintiff, on her own behalf and on behalf of the Class members, incorporates the above
4 allegations as if fully set forth herein.
5

6 86. IWC Wage Order No. 2-2001 provides, in pertinent part, as follows: Each workday an employee
7 is required to report for work and does report, but is not put to work or is furnished less than half said
8 employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled
9 day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's
10 regular rate of pay, which shall not be less than the minimum wage.
11

12 87. As alleged above, Defendants routinely scheduled more hourly employees for each shift than
13 were permitted to work their full shifts. When this happened, one or more employees (often including
14 Plaintiff) would arrive at work only to be sent home before having worked half their scheduled shifts –
15 and often before even clocking in.
16

17 88. Defendants did not pay those employees reporting time pay, in violation of paragraph 5 of the
18 Wage Order.

19 89. As a result of the wrongful and unlawful acts of Defendants alleged herein, Plaintiff and the
20 Class members have been deprived of reporting time pay in amounts to be determined, and are entitled
21 to recovery of said amounts according to proof, interest thereon, injunctive relief, attorneys' fees and
22 costs.
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EIGHTH CAUSE OF ACTION
(On Behalf of Plaintiffs and the Entire Class)
Against All Defendants
For Willful Violations of California Labor Code § 226.7 –
Failure to Afford Mandatory Breaks or Meal Periods as Required by
IWC Orders and Labor Code
(Against All Defendants)

90. Plaintiffs repeat and realleges the preceding and subsequent paragraphs as though set forth herein.

91. At all times relevant, Plaintiffs and the Class members were covered by the provisions of Industrial Wage Commission (“IWC”) Orders.

92. The IWC Orders provide, in applicable part:

11. (A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the employer and employee. In the case of employees covered by a valid collective bargaining agreement, the parties to the collective bargaining agreement may agree to a meal period that commences after no more than six (6) hours of work.

11. (B) An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

11. (C) Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an “on duty” meal period and counted as time worked. An “on duty” meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.

11. (D) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the meal period is not provided.

1 12. (A) Every employer shall authorize and permit all employees to take rest periods, which insofar
2 as practicable shall be in the middle of each work period. The authorized rest period time shall be
3 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours
4 or major fraction thereof. However, a rest period need not be authorized for employees whose total
daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be
counted as hours worked for which there shall be no deduction from wages.

5 12. (B) If an employer fails to provide an employee a rest period in accordance with the applicable
6 provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's
7 regular rate of compensation for each workday that the rest period is not provided.

8 93. California Labor Code § 226.7 states:

9 (a) No employer shall require any employee to work during any meal or rest period mandated by an
10 applicable order of the Industrial Welfare Commission.

11 (b) If an employer fails to provide an employee a meal period or rest period in accordance with an
12 applicable order of the Industrial Welfare Commission, the employer shall pay the employee one
13 additional hour of pay at the employee's regular rate of compensation for each work day that the
meal or rest period is not provided.

14 94. Crunch, LLC routinely failed to provide Plaintiffs and the Class members with a 30-minute
15 unpaid meal period within the first five (5) hours of work in compliance with IWC Orders and Labor
16 Code § 226.7. Defendants routinely failed to provide Plaintiffs and the Class members with a second
17 30-minute meal period within the second five (5) hours of work in compliance with IWC Orders and
18 Labor Code § 226.7. As a result of Defendants' failure, Plaintiffs and the Class members are entitled to
19 recover an amount to be proved at trial, of not less than one additional hour of pay at the regular rate of
20 compensation for each workday that the meal period was not provided, and any and all civil penalties
21 provided by law.
22

23 95. Crunch, LLC routinely failed to provide Plaintiffs and the Class members with a 10-minute paid
24 rest period for each four (4) hour period of work, in compliance with IWC Orders and Labor Code §
25 226.7. As a result of Defendants' failure, Plaintiffs and the Class members are entitled to recover an
26 amount to be proved at trial, of not less than one additional hour of pay at the regular rate of
27
28

1 compensation for each workday that the rest period was not provided, and any and all civil penalties
2 provided by law.

3
4 96. Crunch, LLC's policy and practice of denying Plaintiffs and the entire Class meal and rest
5 periods constitutes a willful violation of California Labor Code § 226.7. Plaintiffs and the entire Class
6 have sustained damages as a direct and proximate consequence of the Defendants' willful and illegal
7 conduct, to wit, they have been forced to work continuously throughout the day, every day, without
8 being allowed to take meal and rest periods.

9
10 97. Plaintiffs have incurred, and will continue to incur attorney fees and costs in the prosecution of
11 this action. Plaintiffs seek attorneys' fees under all applicable provisions of law. Wherefore, Plaintiffs
12 prays judgment as set forth herein below.

13
14 **NINTH CAUSE OF ACTION**
15 **(On Behalf of Plaintiff and the Entire Class)**
16 **Against All Defendants**
17 **For San Francisco Sick Leave Ordinance**

18 98. Plaintiff repeats and realleges the preceding and subsequent paragraphs as though set forth
19 herein.

20 99. At all times relevant, Plaintiff and the Class members were covered by the provisions of San
21 Francisco Sick Leave Ordinance (San Francisco Administrative Code, Chapter 12w).

22 100. Defendants have violated San Francisco Sick Leave Ordinance. Defendants have had a
23 policy and practice of interfering with Plaintiff and Class Members' ability to take sick day, failing to
24 provide notice to Plaintiff and Class Members of their right to paid sick leave at their regular rate of pay.
25 Plaintiff and Class Members meet the various requirements (i.e. length of employment, temporal,
26 geographic, not covered by a collective bargaining agreement, etc.) for paid sick days under San
27 Francisco Sick Leave Ordinance.
28

1 101. San Francisco Sick Leave Ordinance requires that for every 30 hours worked after paid
2 sick leave begins to accrue for an employee, the employee shall accrue one hour of paid sick leave. Paid
3 sick leave shall accrue only in hour-unit increments; there shall be no accrual of a fraction of an hour of
4 paid sick leave. For employees of small businesses, there shall be a cap of 40 hours of accrued paid sick
5 leave. For employees of other employers, there shall be a cap of 72 hours of accrued paid sick leave.
6 Paid sick leave for nonexempt employees shall be calculated in the same manner as the regular rate of
7 pay for the workweek in which the employee uses paid sick leave, whether or not the employee actually
8 works overtime in that workweek.
9

10 102. Defendants unlawfully withheld paid sick leave. The dollar amount of paid sick leave
11 withheld from the employee multiplied by three, or \$250.00, whichever amount is greater.
12

13 103. Plaintiff request penalties and unpaid sick leave against Defendants as provided under
14 San Francisco Sick Leave Ordinance, plus reasonable attorneys' fees and costs, in amounts to be
15 provided at trial.
16

17 **TENTH CAUSE OF ACTION**
18 **FAILURE TO PAY PTO ON TERMINATION (California Labor Code §§ 201-202 and 227.3)**
19 **(by the PTO Subclass)**
20 **Against All Defendants**

21 104. Plaintiff repeats and realleges the preceding and subsequent paragraphs as though set
22 forth herein.

23 105. Once an employee accrues vacation time, that time is treated as compensation and cannot
24 be forfeited without compensation. Pursuant to Labor Code § 227.3, accrued but unused vacation time
25 constitutes "wages" that must be paid to the employee at the employee's regular rate of pay at
26 the time of termination. An employer may not adopt policies that require forfeiture of vested vacation
27 time without compensation.
28

1 106. Defendants' PTO policy constituted a vacation time policy subject to Labor Code §
2 227.3.

3 107. Plaintiff CHAVEZ and members of the PTO subclass had accrued but unused
4 vacation time upon their termination from employment with Defendants, but Defendants failed and
5 refused to pay Plaintiff CHAVEZ, and the California PTO class the value of that time upon
6 termination. Accordingly, Defendants have violated California Labor Code provisions including, but
7 not limited to, §§ 201, 202 and 227.3. Plaintiff and the PTO class are entitled to recover unpaid wages
8 for all unused vacation time.
9

10
11 **ELEVENTH CAUSE OF ACTION**
12 **(On Behalf of Plaintiffs and the Entire Class)**
13 **Against All Defendants**
14 **For Unjust Enrichment**

15 108. Plaintiff repeats and realleges the preceding and subsequent paragraphs as though set
16 forth herein.

17 109. By taking advantage of Plaintiffs' and Class members, Defendants, and each of them,
18 were unjustly enriched at Plaintiffs' and Class members' expense. Crunch, LLC gained an advantage by
19 denying Plaintiffs and Class members regular and overtime wages, miscalculation of overtime rate, meal
20 and rest periods and failure to maintain accurate pay records: including all hours worked, split shifts
21 and/or the inaccurate overtime rate of pay. As a proximate result, Plaintiffs and Class members suffered
22 damages. The interests of equity require that Defendants pay restitution and penalties for violating the
23 Labor Code and Business and Professions Code. Wherefore, Plaintiffs prays judgment as set forth
24 herein below.
25

26 110. By taking advantage of Plaintiff' and Class members, Defendants, and each of them,
27 were unjustly enriched at Plaintiff' and Class members' expense. Crunch, LLC gained an advantage by
28

1 miscalculating of SICK PAY and PTO rate of pay and failure to maintain accurate pay records. As a
2 proximate result, Plaintiff and Class members suffered damages. The interests of equity require that
3 Defendants pay restitution and penalties for violating the Labor Code, San Francisco Sick Leave
4 Ordinance, and Business and Professions Code. Wherefore, Plaintiff prays judgment as set forth herein
5 below
6

7 PRAYER FOR RELIEF
8

9 WHEREFORE, Plaintiffs and Class Members pray for judgment against Defendants, and
10 each of them, as follows:

- 11 a.) Certifying this action to proceed as a class action pursuant to Federal Rules of Civil
12 Procedure and designating Plaintiff as the representative of the Class and his counsel
13 as counsel for the Class;
- 14 b.) For damages for unpaid wages, including regular and overtime wages, and such
15 general and special damages as may be appropriate, according to proof at trial;
- 16 c.) For statutory penalties pursuant to California Labor Code Section 226;
- 17 d.) For liquidated damages;
- 18 e.) Waiting time penalties for failure to timely pay all wages upon discharge;
- 19 f.) Declaring that the concerted violations alleged herein constitute unfair competition in
20 violation of California's Unfair Competition Law, San Francisco Sick Leave
21 Ordinance (San Francisco Administrative Code, Chapter 12w), and violations of
22 California's Labor Code;
- 23 g.) Permanently enjoining Defendants from continuing to engage in the unlawful
24 concerted conduct described herein;
- 25 h.) Equitable remedies, including but not limited to, an equitable accounting, as the court
26 deems just and proper under the circumstances;
- 27 i.) Granting Plaintiff the costs of prosecuting this action, together with interest and
28

1 reasonable attorneys' and experts' fees;

2 j.) For all economic and non-economic damages;

3 k.) Granting such other relief as this Court may deem just and proper under the
4 circumstances.
5

6 **JURY DEMAND**

7 To the full extent available, Plaintiffs demands a trial by trial.

8
9 Dated: April 8, 2020

Ladva Law Firm

10
11 By: /s/ Ashwin Ladva
12 Ashwin Ladva, Esq.
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The JS JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
Jorge Chavez, individually and on behalf of others similarly situated
(b) County of Residence of First Listed Plaintiff Contra Costa County
(c) Attorneys (Firm Name, Address, and Telephone Number) Ashwin Ladva & Scott S. Nakama, Ladva Law Firm 530 Jackson Street, 2nd Floor San Francisco, CA 94133, (415) 296-8844

DEFENDANTS
CRUNCH, LLC and DOES 1-100
County of Residence of First Listed Defendant San Francisco County
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State PTF DEF 1 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3
Incorporated or Principal Place of Business In This State PTF DEF 4 4
Incorporated and Principal Place of Business In Another State 5 5
Foreign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332(d)(2)(A)
Brief description of cause:
Wage and hour claims under California law.

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):
JUDGE Jon S. Tigar DOCKET NUMBER 4:18-cv-04374-JST

DATE April 8, 2020 SIGNATURE OF ATTORNEY OF RECORD [Signature]

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Personal Trainer Sues Crunch, LLC Over Alleged Off-the-Clock Work, Unpaid Wages](#)
