

# **EXHIBIT A**

SUM-100

**SUMMONS  
(CITACION JUDICIAL)**

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

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

**07/07/2021** at 03:22:15 Plw

Clerk of the Superior Court  
By Ivilinda IvilClure, Deputy Clerk

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

ACUSHNET COMPANY; and DOES 1 to 100, inclusive

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

BLANCA GARCIA and MATILDE CABRERA, on behalf of themselves and others similarly situated

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

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

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

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

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is: Hall of Justice  
(El nombre y dirección de la corte es): San Diego Superior Court Southern District  
330 W. Broadway  
San Diego, CA 92101

CASE NUMBER:  
(Número del Caso): 37-2021-00029094-CU-DE-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Joseph Lavi (SBN 209776); Vincent C. Granberry (SBN 276483); Kevin Joseph Faman (SBN 327524)

LAVI & EBRAHIMIAN, LLP  
8889 W. Olympic Blvd., Suite 200, Beverly Hills, CA 90211 T: (310) 432-0000 F: (310) 432-0001

*M. McClure*  
M. McClure, Deputy  
(Adjunto)

DATE: 07/08/2021  
(Fecha) Clerk, by (Secretario)

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

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

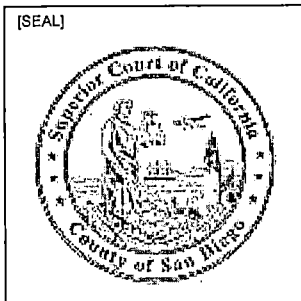
- 1.  as an individual defendant.
- 2.  as the person sued under the fictitious name of (specify):

3.  on behalf of (specify): **Acushnet Company**

- under:  CCP 416.10 (corporation)  CCP 416.60 (minor)
- CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)
- CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)

4.  other (specify): **form unknown**

4.  by personal delivery on (date): **8-9-2021**



1 Joseph Lavi, Esq. (SBN 209776)  
jlavi@lelawfirm.com  
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7 Sahag Majarian II, Esq. (State Bar No. 146621)  
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11 Attorneys for Plaintiffs BLANCA GARCIA and  
MATILDE CABRERA on behalf of themselves and others similarly situated

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
13 **FOR THE COUNTY OF SAN DIEGO – SOUTHERN DISTRICT**

14 BLANCA GARCIA and MATILDE  
15 CABRERA, on behalf of themselves and others  
similarly situated,

16 Plaintiffs,

17 vs.

18 ACUSHNET COMPANY; and DOES 1 to 100,  
19 inclusive,

20 Defendants.

Case No.: 37-2021-00029094-CU-0E-CTL

**CLASS ACTION**

**PLAINTIFFS BLANCA GARCIA'S  
AND MATILDE CABRERA'S  
COMPLAINT FOR DAMAGES AND  
RESTITUTION FOR:**

1. **FAILURE TO PAY WAGES FOR ALL HOURS WORKED AT MINIMUM WAGE IN VIOLATION OF LABOR CODE SECTIONS 1194 AND 1197**
2. **FAILURE TO PAY OVERTIME WAGES FOR DAILY OVERTIME WORKED IN VIOLATION OF LABOR CODE SECTIONS 510 AND 1194**
3. **FAILURE TO AUTHORIZE OR PERMIT MEAL PERIODS IN VIOLATION OF LABOR CODE SECTIONS 512 AND 226.7**
4. **FAILURE TO AUTHORIZE OR PERMIT REST PERIODS IN VIOLATION OF LABOR CODE SECTION 226.7**

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- 5. **FAILURE TO TIMELY PAY EARNED WAGES DURING EMPLOYMENT IN VIOLATION OF LABOR CODE SECTION 204**
- 6. **FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN VIOLATION OF LABOR CODE SECTION 226**
- 7. **FAILURE TO TIMELY PAY ALL EARNED WAGES AND FINAL PAYCHECKS DUE AT TIME OF SEPARATION OF EMPLOYMENT IN VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**
- 8. **UNFAIR BUSINESS PRACTICES, IN VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTIONS 17200, ET SEQ.**

**DEMAND FOR JURY TRIAL**

**COME NOW** Plaintiffs BLANCA GARCIA and MATILDE CABRERA (“Plaintiffs”), who allege and complain against Defendants ACUSHNET COMPANY; and DOES 1 to 100, inclusive (collectively “Defendants”) as follows:

**I. INTRODUCTION**

1. This is a class action lawsuit seeking unpaid wages and interest thereon for failure to pay wages for all hours worked at minimum wage and all overtime hours worked at the overtime rate of pay; failure to authorize or permit all legally required and compliant meal periods or pay meal period premium wages; failure to authorize or permit all legally required and compliant rest periods or pay rest period premium wages; statutory penalties for failure to timely pay earned wages during employment; statutory penalties for failure to provide accurate wage statements; statutory waiting time penalties in the form of continuation wages for failure to timely pay employees all wages due upon separation of employment; injunctive relief and other equitable relief; reasonable attorneys’ fees pursuant to Labor Code sections 218.5, 226(e) and 1194; costs; and interest brought on behalf of Plaintiffs and others similarly situated.

1 **II. JURISDICTION AND VENUE**

2 2. This Court has jurisdiction over Plaintiffs' and putative class members' claims for  
3 failure to pay wages for all hours worked at minimum wage and overtime hours worked at the  
4 overtime rate of pay due; failure to authorize or permit all legally required and compliant meal  
5 periods or pay meal period premium wages; failure to authorize or permit all legally required and  
6 compliant rest periods or pay rest period premium wages; statutory penalties for failure to timely  
7 pay earned wages during employment; statutory penalties for failure to provide accurate wage  
8 statements; statutory waiting time penalties in the form of continuation wages for failure to timely  
9 pay employees all wages due upon separation of employment; and claims for injunctive relief and  
10 restitution under California Business and Professions Code sections 17200, *et seq.*, for the  
11 following reasons: Defendants operate throughout California; Defendants employed Plaintiffs and  
12 putative class members in locations throughout California, including but not limited to San Diego  
13 County, at 2819 Loker Avenue East, Carlsbad, CA 92010; more than two-thirds of putative class  
14 members are California citizens; the principal violations of California law occurred in California;  
15 no other class actions have been filed against Defendants in the last four (4) years alleging wage  
16 and hour violations; the conduct of Defendants forms a significant basis for Plaintiffs' and  
17 putative class members' claims; and Plaintiffs and putative class members seek significant relief  
18 from Defendants.

19 **III. PARTIES**

20 3. Plaintiffs bring this action on behalf of themselves and other members of the  
21 general public similarly situated. The named Plaintiffs and the class of persons on whose behalf  
22 this action is filed are current, former, and/or future employees of Defendants who work as hourly  
23 non-exempt employees. At all times mentioned herein, the currently named Plaintiffs are and was  
24 a resident of California and was employed by Defendants in the State of California within the four  
25 (4) years prior to the filing of this Complaint.

26 4. Defendants employed BLANCA GARCIA as an hourly non-exempt employee  
27 from in or around 1994, until on or about April 29, 2021.

28 5. Defendants employed MATILDE CABRERA as an hourly non-exempt employee

1 from in or around January 3, 2005, until on or about April 21, 2021.

2 6. Plaintiffs are informed and believe and thereon allege that Defendant employed  
3 them and other hourly non-exempt employees throughout the State of California and therefore  
4 their conduct forms a significant basis of the claims asserted in this matter.

5 7. Plaintiffs are informed and believe and thereon allege that Defendant ACUSHNET  
6 COMPANY is authorized to do business within the State of California and is doing business in the  
7 State of California and/or that Defendants DOES 1-50 are, and at all times relevant hereto were  
8 persons acting on behalf of Defendant ACUSHNET COMPANY in the establishment of, or  
9 ratification of, the aforementioned illegal wage and hour practices or policies. Defendant  
10 ACUSHNET COMPANY operates in San Diego County and employed Plaintiffs and putative  
11 class members in San Diego County, including but not limited to, at 2819 Loker Avenue East,  
12 Carlsbad, CA 92010.

13 8. Plaintiffs are informed and believe and thereon allege that Defendants DOES 51-  
14 100 are individuals unknown to Plaintiffs. Each of the individual Defendants is sued individually  
15 in his or her capacity as an agent, shareholder, owner, representative, supervisor, independent  
16 contractor and/or employee of each Defendant and participated in the establishment of, or  
17 ratification of, the aforementioned illegal wage and hour practices or policies.

18 9. Plaintiffs are unaware of the true names of Defendants DOES 1-100. Plaintiffs sue  
19 said defendants by said fictitious names and will amend this Complaint when the true names and  
20 capacities are ascertained or when such facts pertaining to liability are ascertained, or as permitted  
21 by law or by the Court. Plaintiffs are informed and believe that each of the fictitiously named  
22 Defendants is in some manner responsible for the events and allegations set forth in this  
23 Complaint.

24 10. Plaintiffs are informed and believe and thereon allege that at all relevant times,  
25 each Defendant was an employer, was the principal, agent, partner, joint venturer, officer, director,  
26 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or  
27 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of  
28 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all

1 of the other defendants so as to be liable for their conduct with respect to the matters alleged in  
2 this Complaint. Plaintiffs are further informed and believe and thereon allege that each Defendant  
3 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant  
4 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,  
5 controlled, aided and abetted the conduct of all other defendants. As used in this Complaint,  
6 "Defendant" means "Defendants and each of them," and refers to the Defendants named in the  
7 particular cause of action in which the word appears and includes Defendants ACUSHNET  
8 COMPANY and DOES 1 to 100, inclusive.

9 11. At all times mentioned herein, each Defendant was the co-conspirator, agent,  
10 servant, employee, and/or joint venturer of each of the other defendants and was acting within the  
11 course and scope of said conspiracy, agency, employment, and/or joint venture and with the  
12 permission and consent of each of the other Defendants.

13 12. Plaintiffs make the allegations in this Complaint without any admission that, as to  
14 any particular allegation, Plaintiffs bear the burden of pleading, proving, or persuading and  
15 Plaintiffs reserves all of Plaintiffs' rights to plead in the alternative.

16 **IV. DESCRIPTION OF ILLEGAL PAY PRACTICES**

17 13. Pursuant to the applicable Industrial Welfare Commission ("IWC") Wage Order  
18 ("Wage Order"), codified at California Code of Regulations, title 8, section 11010, Defendants are  
19 employers of Plaintiffs within the meaning of Wage Order 1 and applicable Labor Code sections.  
20 Therefore, each of these Defendants is jointly and severally liable for the wrongs complained of  
21 herein in violation of the Wage Order and the Labor Code.

22 14. **Failure to pay wages for all hours worked at the legal minimum wage:**  
23 Defendants employed many of their employees, including Plaintiffs, as hourly non-exempt  
24 employees. In California, an employer is required to pay hourly employees for all "hours worked,"  
25 which includes all time that an employee is under the control of the employer and all time the  
26 employee is suffered and permitted to work. This includes the time an employee spends, either  
27 directly or indirectly, performing services which inure to the benefit of the employer.

28 15. Labor Code sections 1194 and 1197 require an employer to compensate employees

1 for all “hours worked” at least at the minimum wage rate of pay as established by the IWC and the  
2 Wage Orders.

3 16. Plaintiffs and similarly situated hourly non-exempt employees worked more  
4 minutes per shift than Defendants credited them with having worked. Defendants failed to pay  
5 Plaintiffs and similarly situated employees all wages at the applicable minimum wage for all hours  
6 worked due to Defendants’ policies, practices, and/or procedures including, but not limited to, the  
7 following:

8 (a) Requiring Plaintiffs and similarly situated employees to travel for up to  
9 three (3) to five (5) minutes every day from the moment they entered Defendants’ premises to the  
10 point of clocking in for their shifts and were likewise required to repeat the procedure when  
11 clocking out for their shifts and exiting the premises. This resulted in Defendants exercising  
12 control and direction over Plaintiffs and similarly situated employees for up to an additional ten  
13 (10) minutes per day;

14 (b) Requiring Plaintiffs and similarly situated employees to travel to and from a  
15 designated area while they were off the clock during their meal periods, resulting in meal periods  
16 that were not duty-free and/or at least thirty (30) minutes. For example, Plaintiffs and similarly  
17 situated employees were required to clock out for meal periods in their work areas and then travel  
18 for up to three (3) to five (5) minutes every day to a designated break area near the entrance of the  
19 facility. Defendants continued exercise of control and direction over Plaintiffs and similarly  
20 situated employees for up to an additional ten (10) minutes per day resulted in meal periods that  
21 were not duty-free and/or at least thirty (30) minutes as required by California law; and

22 (c) “Rounding” down or “shaving” Plaintiffs’ and similarly situated  
23 employees’ total daily hours at the time of their clock-in and clock-out to the nearest quarter of an  
24 hour, to the benefit of Defendants.

25 17. Plaintiffs and similarly situated employees were not paid for this time resulting in  
26 Defendants’ failure to pay minimum wage for all the hours Plaintiffs and similarly situated  
27 employees worked.

28 18. Therefore, Defendants suffered, permitted, and required their hourly non-exempt



1 employees to be subject to Defendants' control without paying wages for that time. This resulted  
2 in Plaintiffs and similarly situated employees working time for which they were not compensated  
3 any wages, in violation of Labor Code sections 1194, 1197, and Wage Order 1.

4 **19. Failure to pay wages for overtime hours worked at the overtime rate of pay:**  
5 Defendants employed many of their employees, including Plaintiffs, as hourly non-exempt  
6 employees. In California, an employer is required to pay hourly employees for all "hours worked,"  
7 which includes all time that an employee is under the control of the employer and all time the  
8 employee is suffered or permitted to work. This includes the time an employee spends, either  
9 directly or indirectly, performing services which inure to the benefit of the employer.

10 **20.** Labor Code sections 510 and 1194 and Wage Order 1 require an employer to  
11 compensate employees at a higher rate of pay for hours worked in excess of eight (8) hours in a  
12 workday, more than forty (40) hours in a workweek, and on any seventh consecutive day of work  
13 in a workweek:

14 Any work in excess of eight hours in one workday and any work in excess of 40  
15 hours in any one workweek and the first eight hours worked on the seventh day of  
16 work in any one workweek shall be compensated at the rate of no less than one and  
17 one-half times the regular rate of pay for an employee. Any work in excess of 12  
18 hours in one day shall be compensated at the rate of no less than twice the regular  
19 rate of pay for an employee. In addition, any work in excess of eight hours on any  
20 seventh day of a workweek shall be compensated at the rate of no less than twice  
21 the regular rate of pay of an employee.

22 Labor Code section 510; Wage Order 1, §3.

23 **21.** Defendants failed to pay Plaintiffs and similarly situated employees all wages at the  
24 applicable minimum wage for all hours worked due to Defendants' policies, practices, and/or  
25 procedures including, but not limited to, the following:

26 (a) Requiring Plaintiffs and similarly situated employees to travel for up to  
27 three (3) to five (5) minutes every day from the moment they entered the premises of the  
28 Defendants to the point of clocking in for their shifts and were likewise required to repeat the  
29 procedure when clocking out for their shifts and exiting the premises. This resulted in Defendants  
30 exercising control and direction over Plaintiffs and similarly situated employees for up to an  
31 additional ten (10) minutes per day;

1 (b) Requiring Plaintiffs and similarly situated employees to travel to and from a  
2 designated area while they were off the clock during their meal periods, resulting in meal periods  
3 that were not duty-free and/or at least thirty (30) minutes. For example, Plaintiffs and similarly  
4 situated employees were required to clock out for meal periods in the work area and then travel for  
5 up to three (3) to five (5) minutes every day to a designated break area near the entrance of the  
6 facility. Defendants continued exercise of control and direction over Plaintiffs and similarly  
7 situated employees for up to an additional ten (10) minutes per day resulted in meal periods that  
8 were not duty-free and/or less than thirty (30) minutes as required by California law; and

9 (c) "Rounding" down or "shaving" Plaintiffs' and similarly situated  
10 employees' total daily hours at the time of their clock-in and clock-out to the nearest quarter of an  
11 hour, to the benefit of Defendants.

12 22. Plaintiffs and similarly situated employees were not paid for this time.

13 23. To the extent the employees had already worked 8 hours in the day and on  
14 workweeks they had already worked 40 hours in a workweek, the employees should have been  
15 paid overtime for this unpaid time. This resulted in hourly non-exempt employees working time  
16 which should have been paid at the legal overtime rate but was not paid any wages in violation of  
17 Labor Code sections 510, 1194, and Wage Order 1.

18 24. Overtime is based upon an employee's regular rate of pay. "The regular rate at  
19 which an employee is employed shall be deemed to include all remuneration for employment paid  
20 to, or on behalf, of the employee." *See* Division of Labor Standards Enforcement – Enforcement  
21 Policies and Interpretations Manual, Section 49.1.2.

22 25. In this case, Plaintiffs allege that when they and similarly situated employees  
23 earned overtime wages, Defendants failed to pay them overtime wages at the proper overtime rate  
24 of pay due to Defendants' failure to factor in bonus pay when calculating the overtime rate of pay.  
25 Specifically, Defendants maintained a policy, practice, and/or procedure of failing to include all  
26 bonus pay, which is paid based on the profitability of the company, when calculating Plaintiffs'  
27 and similarly situated employees' regular rate of pay for the purpose of paying overtime.

28 26. Defendants' foregoing policy, practice, and/or procedure resulted in Defendants

1 failing to pay Plaintiffs and similarly situated employees at their overtime rate of pay for all  
2 overtime hours worked, in violation of Labor Code sections 510, 1194, 1198, and the Wage Order.

3       27.     **Failure to authorize or permit all legally required and compliant meal periods**  
4 **and/or failure to pay meal period premium wages:** Defendants often employed hourly non-  
5 exempt employees, including the named Plaintiffs and similarly situated employees, for shifts  
6 longer than five (5) hours in length and shifts longer than ten (10) hours in length.

7       28.     California law requires an employer to authorize or permit an uninterrupted meal  
8 period of no less than thirty (30) minutes no later than the end of the employee's fifth hour of  
9 work and a second meal period no later than the employee's tenth hour of work. Labor Code §512;  
10 Wage Order 1, §11. If the employee is not relieved of all duties during a meal period, the meal  
11 period shall be considered an "on duty" meal period and counted as time worked. A paid "on  
12 duty" meal period is only permitted when (1) the nature of the work prevents an employee from  
13 being relieved of all duty and (2) the parties have a written agreement agreeing to on-duty meal  
14 periods. If the employee is not free to leave the work premises or worksite during the meal period,  
15 even if the employee is relieved of all other duty during the meal period, the employee is subject  
16 to the employer's control and the meal period is counted as time worked. If an employer fails to  
17 provide an employee a meal period in accordance with the law, the employer must pay the  
18 employee one (1) hour of pay at the employee's regular rate of pay for each workday that a legally  
19 required and compliant meal period was not provided. Labor Code §226.7; Wage Order 1, §11.

20       29.     Here, Plaintiffs and similarly situated employees worked shifts long enough to  
21 entitle them to meal periods under California law. Nevertheless, Defendants employed policies,  
22 practices, and/or procedures that resulted in their failure to authorize or permit meal periods to  
23 Plaintiffs and similarly situated employees of no less than thirty (30) minutes for each five-hour  
24 period of work as required by law. Such policies, practices, and/or procedures included, but were  
25 not limited to, the following:

26             (a)     Requiring Plaintiffs and similarly situated employees to travel to and from  
27 a designated area while they were off the clock during their meal periods, resulting in meal periods  
28 that were not duty-free and/or less than thirty (30) minutes. For example, Plaintiffs and similarly

1 situated employees were required to clock out for meal periods in the work area and then travel for  
2 up to three (3) to five (5) minutes off-the-clock every day to a designated break area near the  
3 entrance of the facility. Defendants continued exercise of control and direction over Plaintiffs and  
4 similarly situated employees for up to an additional ten (10) minutes per day during their meal  
5 periods which resulted in meal periods that were not duty-free and/or less than thirty (30) minutes  
6 as required by California law; and

7 (b) Failing to authorize or permit Plaintiffs and similarly situated employees a  
8 second uninterrupted duty-free meal period of no less than thirty (30) minutes when they worked  
9 shifts over 10 hours.

10 30. Additionally, Defendants failed to pay Plaintiffs and similarly situated employees  
11 a meal period premium wage of one (1) additional hour of pay at their regular rate of  
12 compensation for each workday the employees did not receive all legally required and compliant  
13 meal periods. Defendants employed policies and procedures which ensured that employees did not  
14 receive any meal period premium wages to compensate them for workdays in which they did not  
15 receive all legally required and compliant meal periods.

16 31. Finally, on occasions when Defendants paid Plaintiffs and similarly situated  
17 employees a “premium” wage for late, missed, short, on-premise, on-duty, and/or interrupted meal  
18 periods, Defendants failed to pay the one (1) additional hour of pay at Plaintiffs’ and similarly  
19 situated employees’ regular rate of compensation. Specifically, Defendants maintained a policy,  
20 practice, and/or procedure of failing to include bonus pay, which is based on the profitability of  
21 the company, when calculating Plaintiffs’ and similarly situated employees’ regular rate of pay for  
22 the purpose of paying meal period premium wages.

23 32. The aforementioned policies, practices, and/or procedures of Defendants resulted in  
24 Plaintiffs and similarly situated employees not being provided with all legally required and  
25 compliant meal periods and/or not receiving premium wages to compensate them for such  
26 instances, all in violation of California law.

27 33. **Failure to authorize and permit all legally required and compliant rest periods**  
28 **and/or failure to pay rest period premiums:** Defendants often employed non-exempt

1 employees, including the named Plaintiffs and similarly situated employees, for shifts of least  
2 three-and-a-half (3.5) hours.

3 34. California law requires every employer to authorize and permit an employee a rest  
4 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor  
5 Code §226.7; Wage Order 1, §12. If the employer fails to authorize or permit a required rest  
6 period, the employer must pay the employee one (1) hour of pay at the employee's regular rate of  
7 compensation for each workday the employer did not authorize or permit a legally required rest  
8 period. *Id.* Under California law, "[e]mployees are entitled to 10 minutes' rest for shifts from three  
9 and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30  
10 minutes for shifts of more than 10 hours up to 14 hours, and so on." *Brinker Restaurant Corp. v.*  
11 *Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code §226.7; Wage Order 1, §12. Rest  
12 periods, insofar as practicable, shall be in the middle of each work period. Wage Order 1, §12.  
13 Additionally, the rest period requirement "obligates employers to permit – and authorizes  
14 employees to take – off-duty rest periods." *Augustus v. ABM Security Services, Inc.*, (2016) 5  
15 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all duties and  
16 relinquish control over how employees spend their time. *Id.*

17 35. In this case, Plaintiffs and similarly situated employees regularly worked shifts of  
18 more than three-and-a-half (3.5) hours. Nevertheless, Defendants employed policies, practices,  
19 and/or procedures that resulted in their failure to authorize or permit all legally required and  
20 compliant rest periods to Plaintiffs and similarly situated employees. Such policies, practices,  
21 and/or procedures included, but were not limited to, the following:

22 (a) Requiring Plaintiffs and similarly situated employees to travel to and from a  
23 designated break area during their rest periods, resulting in rest periods that were not duty-free  
24 and/or less than ten (10) minutes. For example, Plaintiffs and similarly situated employees were  
25 required travel for up to three (3) to five (5) minutes every day to a designated break area near the  
26 entrance of the facility. Defendants continued exercise of control and direction over Plaintiffs and  
27 similarly situated employees for up to an additional ten (10) minutes per day resulted in rest  
28 periods that were not duty-free and/or less than ten (10) minutes as required by California law; and

1 (b) Failing to authorize or permit Plaintiffs and similarly situated employees a  
2 third uninterrupted duty-free rest period of a net ten (10) minutes for shifts exceeding ten (10)  
3 hours.

4 36. Additionally, Defendants failed to pay Plaintiffs and similarly situated employees a  
5 rest period premium wage of one (1) additional hour of pay at their regular rate of compensation  
6 for each workday the employees did not receive all legally required and compliant rest periods.  
7 Defendants employed policies and procedures which ensured that employees did not receive any  
8 rest period premium wages to compensate them for workdays in which they did not receive all  
9 legally required and compliant rest periods.

10 37. Finally, on occasions when Defendants did pay Plaintiffs and similarly situated  
11 employees a “premium” wage for late, missed, short, on-premise, on-duty, and/or interrupted rest  
12 periods, Defendants failed to pay the one (1) additional hour of pay at Plaintiffs’ and similarly  
13 situated employees’ regular rate of compensation. Specifically, Defendants maintained a policy,  
14 practice, and/or procedure of failing to include bonus pay, which is based on the profitability of  
15 the company, when calculating Plaintiffs’ and similarly situated employees’ regular rate of pay for  
16 the purpose of paying rest period premiums.

17 38. The aforementioned policies, practices, and/or procedures of Defendants resulted in  
18 Plaintiffs and similarly situated employees not being provided with all legally required and  
19 compliant rest periods and/or not receiving premium wages to compensate them for such  
20 instances, all in violation of California law.

21 39. **Failure to timely pay earned wages during employment:** In California, wages  
22 must be paid at least twice during each calendar month on days designated in advance by the  
23 employer as regular paydays, subject to some exceptions. Labor Code §204(a). Wages earned  
24 between the 1st and 15th days, inclusive, of any calendar month must be paid between the 16th  
25 and the 26th day of that month and wages earned between the 16th and the last day, inclusive, of  
26 any calendar month must be paid between the 1st and 10th day of the following month. *Id.* Other  
27 payroll periods such as those that are weekly, biweekly, or semimonthly, must be paid within  
28 seven (7) calendar days following the close of the payroll period in which wages were earned.

1 Labor Code §204(d).

2 40. As a derivative of Plaintiffs' claims above, Plaintiffs allege that Defendants failed  
3 to timely pay Plaintiffs' and similarly situated employees' earned wages (including minimum  
4 wages, overtime wages, meal period premium wages, and/or rest period premium wages), in  
5 violation of Labor Code section 204.

6 41. Defendants' aforementioned policies, practices, and/or procedures resulted in their  
7 failure to pay Plaintiffs and similarly situated employees their earned wages within the applicable  
8 time frames outlined in Labor Code section 204.

9 42. **Failure to provide accurate wage statements:** Labor Code section 226(a)  
10 provides, *inter alia*, that, upon paying an employee his or her wages, the employer must "furnish  
11 each of his or her employees ... an itemized statement in writing showing (1) gross wages earned,  
12 (2) total hours worked by the employee, except for any employee whose compensation is solely  
13 based on a salary and who is exempt from payment of overtime under subdivision (a) of Section  
14 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate  
15 units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all  
16 deductions, provided, that all deductions made on written orders of the employee may be  
17 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the pay period  
18 for which the employee is paid, (7) the name of the employee and his or her social security  
19 number, (8) the name and address of the legal entity that is the employer, and (9) all applicable  
20 hourly rates in effect during the pay period and the corresponding number of hours worked at each  
21 hourly rate by the employee."

22 43. Defendants committed direct violations of Labor Code section 226, through their  
23 policies, practices, and/or procedures, including, but not limited to failing to provide Plaintiffs and  
24 other similarly situated employees accurate itemized wage statements showing: (1) the hourly rate  
25 of pay; (2) the overtime rate of pay; and (2) the number of overtime hours worked.

26 44. As a derivative of Plaintiffs' claims above, Plaintiffs allege that Defendants failed  
27 to provide accurate wage and hour statements to him and other similarly situated employees who  
28 were subject to Defendants' control for uncompensated time and who did not receive all their

1 earned wages (including minimum wages, overtime wages, reporting time wages, meal period  
2 premium wages, and/or rest period premium wages), in violation of Labor Code section 226.

3 45. **Failure to timely pay final wages:** An employer is required to pay all unpaid  
4 wages timely after an employee's employment ends. The wages are due immediately upon  
5 termination or within seventy-two (72) hours of resignation. Labor Code §§201, 202.

6 46. As a result of the aforementioned violations of the Labor Code, Plaintiffs allege  
7 that they, and on information and belief, other similarly situated employees, were not paid their  
8 final wages in a timely manner as required by Labor Code section 203. Minimum wages for all  
9 hours worked, overtime wages for overtime hours worked, meal period premium wages, and/or  
10 rest period premium wages (all described above), were not paid at the time of Plaintiffs' and other  
11 similarly situated employees' separation of employment, whether voluntarily or involuntarily, as  
12 required by Labor Code sections 201, 202, and 203.

13 47. Furthermore, Defendants committed direct violations of Labor Code section 203,  
14 through their policies, practices, and/or procedures, including, but not limited to failing to issue  
15 wages to Plaintiffs and other similarly situated employees within seventy-two (72) hours of  
16 resignation. For example, Defendants provided Plaintiff BLANCA GARCIA with final wages one  
17 (1) day late.

18 **V. CLASS DEFINITIONS AND CLASS ALLEGATIONS**

19 48. Plaintiffs bring this action on behalf of themselves, on behalf of others similarly  
20 situated, and on behalf of the general public, and as members of a Class defined as follows:

21 A. **Minimum Wage Class:** All current and former hourly non-exempt  
22 employees employed by Defendants in California at any time from four (4) years prior to the filing  
23 of the initial Complaint in this matter through the date notice is mailed to a certified class who  
24 were not paid at least minimum wage for all time they were subject to Defendants' control.

25 B. **Overtime Class:** All current and former hourly non-exempt employees  
26 employed by Defendants in California at any time from four (4) years prior to the filing of the  
27 initial Complaint in this matter through the date notice is mailed to a certified class who worked  
28 more than eight (8) hours in a workday, forty (40) hours in a workweek, and/or seven (7) days in a



1 workweek, to whom Defendants did not pay overtime wages.

2           C.     **Regular Rate Class:** All current and former hourly non-exempt employees  
3 employed by Defendants in California at any time from four (4) years prior to the filing of the  
4 initial Complaint in this matter through the date notice is mailed to a certified class who worked  
5 more than eight (8) hours in a workday, more than forty (40) hours in a workweek, and/or seven  
6 (7) days in a workweek, who received additional remuneration during pay periods in which they  
7 were paid overtime wages, and whose compensation did not include such additional remuneration  
8 when Defendants calculated those employees' overtimes wages.

9           D.     **Meal Period Class:** All current and former hourly non-exempt employees  
10 employed by Defendants in California at any time from four (4) years prior to the filing of the  
11 initial Complaint in this matter through the date notice is mailed to a certified class who worked  
12 shifts more than five (5) hours yet Defendants failed to authorize or permit all required duty-free  
13 meal periods of not less than thirty (30) minutes.

14           E.     **Meal Period Premium Wages Class:** All current and former hourly non-  
15 exempt employees employed by Defendants in California at any time from four (4) years prior to  
16 the filing of the initial Complaint in this matter through the date notice is mailed to a certified  
17 class who received additional remuneration during pay periods in which they were paid meal  
18 period premium wages and whose regular rate of pay did not include such additional remuneration  
19 when Defendants calculated those employees' meal period premium wages.

20           F.     **Rest Period Class:** All current and former hourly non-exempt employees  
21 employed by Defendants in California at any time from four (4) years prior to the filing of the  
22 initial Complaint in this matter through the date notice is mailed to a certified class who worked  
23 shifts of at least three-and-a-half (3.5) hours who did not receive all required duty-free rest periods  
24 of a net ten (10) minutes for every four (4) hours worked or major fraction thereof.

25           G.     **Rest Period Premium Wages Class:** All current and former hourly non-  
26 exempt employees employed by Defendants in California at any time from four (4) years prior to  
27 the filing of the initial Complaint in this matter through the date notice is mailed to a certified  
28 class who received additional remuneration during pay periods in which they were paid rest period

1 premium wages and whose regular rate of pay did not include such additional remuneration when  
2 Defendants calculated those employees' rest period premium wages.

3           H.     **Pay Day Class:** All current and former hourly non-exempt employees  
4 employed by Defendants in California at any time from four (4) years prior to the filing of the  
5 initial Complaint in this action through the date notice is mailed to a certified class who were not  
6 timely paid earned wages during their employment.

7           I.     **Wage Statement Class:** All current and former hourly non-exempt  
8 employees employed by Defendants in California at any time from one (1) year prior to the filing  
9 of the initial Complaint in this action through the date notice is mailed to a certified class who  
10 received inaccurate or incomplete wage and hour statements.

11           J.     **Waiting Time Class:** All current and former hourly non-exempt employees  
12 employed by Defendants in California at any time from three (3) years prior to the filing of the  
13 initial Complaint in this action through the date notice is mailed to a certified class who did not  
14 receive payment of all unpaid wages upon separation of employment within the statutory time  
15 period.

16           K.     **California Class:** All aforementioned classes are herein collectively  
17 referred to as the "California Class."

18           49.    There is a well-defined community of interest in the litigation and the classes are  
19 ascertainable:

20           A.     **Numerosity:** While the exact number of class members in each class is  
21 unknown to Plaintiffs at this time, the Plaintiffs classes are so numerous that the individual joinder  
22 of all members is impractical under the circumstances of this case.

23           B.     **Common Questions Predominate:** Common questions of law and fact  
24 exist as to all members of the Plaintiffs classes and predominate over any questions that affect  
25 only individual members of each class. The common questions of law and fact include, but are not  
26 limited to:

27                   i.     Whether Defendants violated Labor Code sections 1194 and 1197  
28 by not paying wages at the minimum wage rate for all time that the Minimum Wage Class

1 Members were subject to Defendants' control;

2                   ii. Whether Defendants violated Labor Code sections 510 and 1194 by  
3 not paying the Overtime Class Members at the applicable overtime rate for working in excess of  
4 eight (8) hours in a workday, in excess of forty (40) hours in a workweek, and/or seven (7) days in  
5 a workweek;

6                   iii. Whether Defendants violated Labor Code sections 510 and 1194 by  
7 not paying the Regular Rate Class Members at the applicable overtime rate for working in excess  
8 of eight (8) hours in a workday, in excess of forty (40) hours in a workweek, and/or seven (7) days  
9 in a workweek;

10                   iv. Whether Defendants violated Labor Code sections 512 and 226.7, as  
11 well as the applicable Wage Order, by employing the Meal Period Class Members without  
12 providing all compliant and/or required meal periods and/or paying meal period premium wages;

13                   v. Whether Defendants violated Labor Code sections 512 and 226.7, as  
14 well as the applicable Wage Order, by employing the Meal Period Premium Wages Class  
15 Members without paying meal period premium wages at the proper rate;

16                   vi. Whether Defendants violated Labor Code section 226.7 by  
17 employing the Rest Period Class Members without providing all compliant and/or required rest  
18 periods and/or paying rest period premium wages;

19                   vii. Whether Defendants violated Labor Code section 226.7, as well as  
20 the applicable Wage Order, by employing the Rest Period Premium Wages Class Members  
21 without paying rest period premium wages at the proper rate;

22                   viii. Whether Defendants violated Labor Code section 204 by employing  
23 Pay Day Class Members without timely paying them all earned wages during their employment;

24                   ix. Whether Defendants failed to provide the Wage Statement Class  
25 Members with accurate itemized statements at the time they received their itemized statements;

26                   x. Whether Defendants failed to provide the Waiting Time Class  
27 Members with all of their earned wages upon separation of employment within the statutory time  
28 period;

1 xi. Whether Defendants committed unlawful business acts or practice  
2 within the meaning of Business and Professions Code sections 17200, *et seq.*;

3 xii. Whether Class Members are entitled to unpaid wages, penalties, and  
4 other relief pursuant to their claims;

5 xiii. Whether, as a consequence of Defendants' unlawful conduct, the  
6 Class Members are entitled to restitution, and/or equitable relief; and

7 xiv. Whether Defendants' affirmative defenses, if any, raise any common  
8 issues of law or fact as to Plaintiffs and as to Class Members as a whole.

9 C. **Typicality:** Plaintiffs' claims are typical of the claims of the class members  
10 in each of the classes. Plaintiffs and members of the Minimum Wage Class sustained damages  
11 arising out of Defendants' failure to pay wages at least at minimum wage for all time the  
12 employees were subject to Defendants' control. Plaintiffs and members of the Overtime Wage  
13 Class sustained damages arising out of Defendants' failure to pay overtime wages for overtime  
14 hours worked. Plaintiffs and members of the Regular Rate Class sustained damages arising out of  
15 Defendants' failure to pay overtime wages at the proper rate for overtime hours worked. Plaintiffs  
16 and members of the Meal Period Class sustained damages arising out of Defendants' failure to  
17 provide non-exempt employees with all required meal periods and/or meal periods that were duty-  
18 free and not less than thirty (30) minutes and/or failure to pay meal period premium wages as  
19 compensation. Plaintiffs and members of the Meal Period Premium Wages Class sustained  
20 damages arising out of Defendants' failure to pay meal period premium wages at the proper rate.  
21 Plaintiffs and members of the Rest Period Class sustained damages arising out of Defendants'  
22 failure to provide non-exempt employees with all required rest periods and/or rest periods that  
23 were duty-free and of a net ten (10) minutes and/or failure to pay rest period premium wages as  
24 compensation. Plaintiffs and members of the Rest Period Premium Wages Class sustained  
25 damages arising out of Defendants' failure to pay rest period premium wages at the proper rate.  
26 Plaintiffs and members of the Pay Day Class sustained damages arising out of Defendants' failure  
27 to timely pay them all wages earned during their employment in compliance with Labor Code  
28 section 204. Plaintiffs and members of the Wage Statement Class sustained damages arising out of

1 Defendants' failure to furnish them with accurate itemized wage statements in compliance with  
2 Labor Code section 226. Plaintiffs and members of the Waiting Time Class sustained damages  
3 arising out of Defendants' failure to provide all unpaid yet earned wages due upon separation of  
4 employment within the statutory time limit.

5           D.     **Adequacy of Representation:** Plaintiffs will fairly and adequately protect  
6 the interests of the members of each class. Plaintiffs has no interest that is adverse to the interests  
7 of the other class members.

8           E.     **Superiority:** A class action is superior to other available means for the fair  
9 and efficient adjudication of this controversy. Because individual joinder of all members of each  
10 class is impractical, class action treatment will permit a large number of similarly situated persons  
11 to prosecute their common claims in a single forum simultaneously, efficiently, and without the  
12 unnecessary duplication of effort and expense that numerous individual actions would engender.  
13 The expenses and burdens of individual litigation would make it difficult or impossible for  
14 individual members of each class to redress the wrongs done to them, while important public  
15 interests will be served by addressing the matter as a class action. The cost to and burden on the  
16 court system of adjudication of individualized litigation would be substantial, and substantially  
17 more than the costs and burdens of a class action. Individualized litigation would also present the  
18 potential for inconsistent or contradictory judgments.

19           F.     **Public Policy Consideration:** Employers throughout the state violate wage  
20 and hour laws. Current employees often are afraid to assert their rights out of fear of direct or  
21 indirect retaliation. Former employees fear bringing actions because they perceive their former  
22 employers can blacklist them in their future endeavors with negative references or by other means.  
23 Class actions provide the class members who are not named in the Complaint with a type of  
24 anonymity that allows for vindication of their rights.

25 //  
26 //  
27 //  
28 //

**FIRST CAUSE OF ACTION**

**FAILURE TO PAY WAGES FOR ALL HOURS OF WORK AT THE LEGAL MINIMUM  
WAGE RATE IN VIOLATION OF LABOR CODE SECTIONS 1194 AND 1197**

**(Against All Defendants by Plaintiffs and the Minimum Wage Class)**

50. Plaintiffs incorporates all paragraphs above as though fully set forth herein.

51. At all times relevant to this Complaint, Plaintiffs and the Minimum Wage Class were hourly non-exempt employees of Defendants.

52. Pursuant to Labor Code sections 1194, 1197, and the Wage Order, Plaintiffs and the Minimum Wage Class are entitled to receive wages for all hours worked, i.e., all time they were subject to Defendants' control, and those wages must be paid at least at the minimum wage rate in effect during the time the employees earned the wages.

53. Defendants' policies, practices, and/or procedures required Plaintiffs and the Minimum Wage Class to be engaged, suffered, or permitted to work without being paid wages for all of the time in which they were subject to Defendants' control.

54. Defendants employed policies, practices, and/or procedures including, but not limited to, the following:

(a) Requiring Plaintiffs and the Minimum Wage Class to travel for up to three (3) to five (5) minutes every day from the moment they entered the premises of the Defendants to the point of clocking in for their shifts and were likewise required to repeat the procedure when clocking out for their shifts and exiting the premises. This resulted in Defendants exercising control and direction over Plaintiffs and the Minimum Wage Class for up to an additional ten (10) minutes per day;

(b) Requiring Plaintiffs and the Minimum Wage Class to travel to and from a designated area while they were off the clock during their meal periods, resulting in meal periods that were not duty-free and/or less than thirty (30) minutes. For example, Plaintiffs and the Minimum Wage Class were required to clock out for meal periods in the work area and then travel for up to three (3) to five (5) minutes every day to a designated break area near the entrance of the facility. Defendants continued exercise of control and direction over Plaintiffs and the Minimum

1 Wage Class for up to an additional ten (10) minutes per day resulted in meal periods that were not  
2 duty-free and/or less than thirty (30) minutes as required by California law; and

3 (c) "Rounding" down or "shaving" Plaintiffs' and the Minimum Wage Class  
4 members' total daily hours at the time of their clock-in and clock-out to the nearest quarter of an  
5 hour, to the benefit of Defendants.

6 55. Plaintiffs and the Minimum Wage Class were not paid for this time resulting in  
7 Defendants' failure to pay minimum wage for all the hours Plaintiffs and the Minimum Wage  
8 Class worked.

9 56. As a result of Defendants' unlawful conduct, Plaintiffs and the Minimum Wage  
10 Class have suffered damages in an amount subject to proof, to the extent that they were not paid  
11 wages at a minimum wage rate for all hours worked.

12 57. Pursuant to Labor Code sections 1194 and 1194.2, Plaintiffs and the Minimum  
13 Wage Class are entitled to recover unpaid minimum wage, interest thereon, liquidated damages in  
14 the amount of their unpaid minimum wage, and attorneys' fees and costs.

15 **SECOND CAUSE OF ACTION**

16 **FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF LABOR CODE**

17 **SECTIONS 510 and 1194**

18 **(Against All Defendants by Plaintiffs, the Overtime Class, and the Regular Rate Class)**

19 58. Plaintiffs incorporates all paragraphs above as though fully set forth herein.

20 59. At times relevant to this Complaint, Plaintiffs, the Overtime Class, and the Regular  
21 Rate Class were hourly non-exempt employees of Defendants, covered by Labor Code sections  
22 510 and 1194 and the Wage Order 1.

23 60. Pursuant to Labor Code sections 510 and 1194 and the Wage Order 1, hourly non-  
24 exempt employees are entitled to receive a higher rate of pay for all hours worked in excess of  
25 eight (8) hours in a workday, forty (40) hours in a workweek, and on the seventh day of work in a  
26 workweek.

27 61. Labor Code section 510, subdivision (a), states in relevant part:

28 Eight hours of labor constitutes a day's work. Any work in excess of eight hours in  
one workday and any work in excess of 40 hours in any one workweek and the first

1 eight hours worked on the seventh day of work in any one workweek shall be  
2 compensated at the rate of no less than one and one-half times the regular rate of  
3 pay for an employee. Any work in excess of 12 hours in one day shall be  
4 compensated at the rate of no less than twice the regular rate of pay for an  
5 employee. In addition, any work in excess of eight hours on any seventh day of a  
6 workweek shall be compensated at the rate of no less than twice the regular rate of  
7 pay of an employee. Nothing in this section requires an employer to combine more  
8 than one rate of overtime compensation in order to calculate the amount to be paid  
9 to an employee for any hour of overtime work.

62. Further, Labor Code section 1198 provides,

7  
8 The maximum hours of work and the standard conditions of labor fixed by the  
9 commission shall be the maximum hours of work and the standard conditions of  
10 labor for employees. The employment of any employee for longer hours than those  
11 fixed by the order or under conditions of labor prohibited by the order is unlawful.

63. Despite California law requiring employers to pay employees a higher rate of pay  
11 for all hours worked more than eight (8) hours in a workday, more than forty (40) hours in a  
12 workweek, and on the seventh day of work in a workweek, Defendants failed to pay all overtime  
13 wages to Plaintiffs and the Overtime Class for their daily overtime hours worked.

64. Specifically, Defendants' employed policies, practices, and/or procedures  
14 including, but not limited to, the following:

15 (a) Requiring Plaintiffs and the Overtime Class were required to travel for up to  
16 three (3) to five (5) minutes every day from the moment they entered the premises of the  
17 Defendants to the point of clocking in for their shifts and were required to repeat the procedure  
18 when clocking out for their shifts and exiting the premises. This resulted in Defendants exercising  
19 control and direction over Plaintiffs and the Overtime Class for up to an additional ten (10)  
20 minutes per day;

21 (b) Requiring Plaintiffs and the Overtime Class to travel to and from a  
22 designated area while they were off the clock during their meal and rest periods, resulting in meal  
23 periods that were not duty-free and/or less than thirty (30) minutes. For example, Plaintiffs and the  
24 Overtime Class were required to clock out for meal periods in the work area and then travel for up  
25 to three (3) to five (5) minutes every day to a designated break area near the entrance of the  
26 facility. Defendants continued exercise of control and direction over Plaintiffs and the Overtime  
27 Class for up to an additional ten (10) minutes per day resulted in meal periods that were not duty-  
28



1 free and/or less than thirty (30) minutes as required by California law; and

2 (c) "Rounding" down or "shaving" Plaintiffs' and the Overtime Class  
3 members' total daily hours at the time of their clock-in and clock-out to the nearest quarter of an  
4 hour, to the benefit of Defendants.

5 65. Plaintiffs and the Overtime Class were not paid for this time.

6 66. To the extent that the foregoing unpaid time resulted from Plaintiffs and the  
7 Overtime Class being subject to the control of Defendants when they worked more than eight (8)  
8 hours in a workday, more than forty (40) hours in a workweek, and/or seven days in a workweek,  
9 Defendants failed to pay them at their overtime rate of pay for all the overtime hours they worked.

10 67. Overtime is based upon an employee's regular rate of pay. "The regular rate at  
11 which an employee is employed shall be deemed to include all remuneration for employment paid  
12 to, or on behalf, of the employee." *See* Division of Labor Standards Enforcement – Enforcement  
13 Policies and Interpretations Manual, Section 49.1.2.

14 68. In this case, when Plaintiffs and Regular Rate Class Members earned overtime  
15 wages, Defendants failed to pay them overtime wages at the proper overtime rate of pay due to  
16 Defendants' failure to include all remuneration when calculating the overtime rate of pay.  
17 Specifically, Defendants maintained a policy, practice, and/or procedure of failing to include  
18 bonus pay, which is based on the profitability of the company, when calculating Plaintiffs' and  
19 Regular Rate Class Members' regular rate of pay for the purpose of paying overtime.

20 69. As a result of Defendants' unlawful conduct, Plaintiffs, the Overtime Class, and the  
21 Regular Rate Class have suffered damages in an amount subject to proof, to the extent that they  
22 were not paid at their proper overtime rate of pay for all hours worked which constitute overtime.

23 70. Pursuant to Labor Code section 1194, Plaintiffs, the Overtime Class, and the  
24 Regular Rate Class are entitled to recover the full amount of their unpaid overtime wages,  
25 prejudgment interest, and attorneys' fees and costs.

26 //

27 //

28 //

**THIRD CAUSE OF ACTION**

**FAILURE TO AUTHORIZE OR PERMIT MEAL PERIODS IN VIOLATION OF LABOR  
CODE SECTIONS 512 AND 226.7**

**(Against All Defendants by Plaintiffs, the Meal Period Class, and the Meal Period Premium  
Wages Class)**

71. Plaintiffs incorporates all paragraphs above as though fully set forth herein.

72. At all times relevant to this Complaint, Plaintiffs, the Meal Period Class, and the Meal Period Premium Wages Class were hourly non-exempt employees of Defendants, covered by Labor Code sections 512 and 226.7 and the Wage Order.

73. California law requires an employer to authorize or permit an employee an uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of all duties and the employer relinquishes control over the employee's activities no later than the end of the employee's fifth hour of work and a second meal period no later than the employee's tenth hour of work. Labor Code sections 226.7, 512; Wage Order 1, §11; *Brinker Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. If the employer requires the employee to remain at the work site or facility during the meal period, the meal period must be paid. This is true even where the employee is relieved of all work duties during the meal period. *Bono Enterprises, Inc. v. Bradshaw* (1995) 32 Cal.App.4th 968. Labor Code section 226.7 provides that if an employee does not receive a required meal or rest period that "the employer shall pay the employee one 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."

74. In this case, Plaintiffs and the Meal Period Class worked shifts long enough to entitle them to meal periods under California law. Nevertheless, Defendants employed policies, practices, and/or procedures that resulted in their failure to authorize or permit meal periods to Plaintiffs and the Meal Period Class of no less than thirty (30) minutes for each five-hour period of work as required by law. Such policies, practices, and/or procedures included, but were not limited to, the following:

- (a) Requiring Plaintiffs and the Meal Period Class to travel to and from a

1 designated area while they were off the clock during their meal periods, resulting in meal periods  
2 that were not duty-free and/or less than thirty (30) minutes. For example, Plaintiffs and the Meal  
3 Period Class were required to clock out for meal periods in the work area and then travel for up to  
4 three (3) to five (5) minutes off-the-clock every day to a designated break area near the entrance of  
5 the facility. Defendants continued exercise of control and direction over Plaintiffs and the Meal  
6 Period Class for up to an additional ten (10) minutes per day resulted in meal periods that were not  
7 duty-free and/or less than thirty (30) minutes as required by California law; and

8 (b) Failing to authorize or permit Plaintiffs and the Meal Period Class a second  
9 uninterrupted duty-free meal period of no less than thirty (30) minutes for each five-hour period of  
10 work as required by California law.

11 75. Additionally, Defendants failed to pay Plaintiffs and the Meal Period Class one (1)  
12 hour of pay at their regular rate of pay for each workday they did not receive all legally required  
13 and legally compliant meal periods. Defendants lacked a policy and procedure for compensating  
14 Plaintiffs and the Meal Period Class with premium wages when they did not receive all legally  
15 required and legally compliant meal periods.

16 76. Finally, on occasions when Defendants paid Plaintiffs and the Meal Period  
17 Premium Wages Class a “premium” wage for late, missed, short, on-premise, on-duty, and/or  
18 interrupted meal periods, Defendants failed to pay the one (1) additional hour of pay at Plaintiffs’  
19 and the Meal Period Premium Wages Class’ regular rate of compensation. Specifically,  
20 Defendants maintained a policy, practice, and/or procedure of failing to include bonus pay, which  
21 is based on company profitability, when calculating Plaintiffs’ and the Meal Period Premium  
22 Wages Class’ regular rate of pay for the purpose of paying meal period premiums.

23 77. Defendants’ unlawful conduct alleged herein occurred in the course of  
24 employment of Plaintiffs, the Meal Period Class, and the Meal Period Premium Wages Class and  
25 such conduct has continued through the filing of this Complaint.

26 78. Because Defendants failed to provide employees with meal periods in compliance  
27 with the law, Defendants are liable to Plaintiffs, the Meal Period Class, and the Meal Period  
28 Premium Wages Class for one (1) hour of additional pay at the regular rate of compensation for

1 each workday that Defendants did not provide all legally required and legally compliant meal  
2 periods, pursuant to Labor Code section 226.7 and the Wage Order.

3 79. Plaintiffs, on behalf of themselves, the Meal Period Class, and the Meal Period  
4 Premium Wages Class seek damages and all other relief allowable, including a meal period  
5 premium wage for each workday Defendants failed to provide all legally required and legally  
6 compliant meal periods, plus pre-judgment interest.

7 **FOURTH CAUSE OF ACTION**

8 **FAILURE TO AUTHORIZE OR PERMIT REQUIRED REST PERIODS IN VIOLATION**  
9 **OF LABOR CODE SECTION 226.7**

10 **(Against All Defendants by Plaintiffs, the Rest Period Class, and the Rest Period Premium**  
11 **Wages Class)**

12 80. Plaintiffs incorporates all paragraphs above as though fully set forth herein.

13 81. At all times relevant to this Complaint, Plaintiffs, the Rest Period Class, and the  
14 Rest Period Premium Wages Class were employees of Defendants, covered by Labor Code section  
15 226.7 and Wage Order 1.

16 82. California law requires that “[e]very employer shall authorize and permit all  
17 employees to take rest periods, which insofar as practicable shall be in the middle of each work  
18 period. The authorized rest period time shall be based on the total hours worked daily at the rate of  
19 ten (10) minutes net rest time per four (4) hours or major fraction thereof...” Wage Order 1, §12.  
20 Employees are entitled to 10 minutes rest for shifts from three and one-half to six hours in length,  
21 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10  
22 hours up to 14 hours, and so on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53  
23 Cal.4th 1004, 1029; Labor Code §226.7. Additionally, the rest period requirement “obligates  
24 employers to permit – and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM*  
25 *Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must  
26 relieve employees of all duties and relinquish control over how employees spend their time. *Id.* If  
27 an employer fails to provide an employee a rest period in accordance with the applicable  
28 provisions of this Order, the employer shall pay the employee one (1) hour of pay at the

1 employee's regular rate of compensation for each work day that the rest period is not provided."  
2 Wage Order 1, §12; Labor Code §226.7.

3 83. In this case, Plaintiffs and the Rest Period Class regularly worked shifts of more  
4 than three-and-a-half (3.5) hours. Nevertheless, Defendants employed policies, practices, and/or  
5 procedures that resulted in their failure to authorize or permit all legally required and compliant  
6 rest periods to Plaintiffs and the Rest Period Class. Such policies, practices, and/or procedures  
7 included, but were not limited to, the following:

8 (a) Requiring Plaintiffs and the Rest Period Class to travel to and from a  
9 designated break area during their rest periods, resulting in rest periods that were not duty-free  
10 and/or less than ten (10) minutes. For example, Plaintiffs and the Rest Period Class were required  
11 travel for up to three (3) to five (5) minutes every day to a designated break area near the entrance  
12 of the facility. Defendants continued exercise of control and direction over Plaintiffs and the Rest  
13 Period Class for up to an additional ten (10) minutes per day resulted in rest periods that were not  
14 duty-free and/or less than ten (10) minutes as required by California law; and

15 (b) Failing to authorize or permit Plaintiffs and the Rest Period Class a third  
16 uninterrupted duty-free rest period of a net ten (10) minutes for shifts exceeding ten (10) hours.

17 84. Additionally, Defendants failed to pay Plaintiffs and the Rest Period Class one (1)  
18 hour of pay at their regular rate of pay for each workday they did not receive all legally required  
19 and legally compliant rest periods. Defendants lacked a policy and procedure for compensating  
20 Plaintiffs and the Rest Period Class with premium wages when they did not receive all legally  
21 required and legally compliant rest periods.

22 85. Further, on occasions when Defendants did pay Plaintiffs and the Rest Period  
23 Premium Wages Class a "premium" wage for late, missed, short, on-premise, on-duty, and/or  
24 interrupted rest periods, Defendants failed to pay the one (1) additional hour of pay at Plaintiffs'  
25 and the Rest Period Premium Wages Class' regular rate of compensation. Specifically, Defendants  
26 maintained a policy, practice, and/or procedure of failing to include bonus pay, which is based on  
27 company profitability, when calculating Plaintiffs' and the Rest Period Premium Wages Class  
28 members' regular rate of pay for the purpose of paying rest period premiums.

1 86. Defendants' unlawful conduct alleged herein occurred in the course of employment  
2 of Plaintiffs, the Rest Period Class, and the Rest Period Premium Wages Class and such conduct  
3 has continued through the filing of this Complaint.

4 87. Because Defendants failed to provide employees with rest periods in compliance  
5 with the law, Defendants are liable to Plaintiffs, the Rest Period Class, and the Rest Period  
6 Premium Wages Class for one (1) hour of additional pay at the regular rate of compensation for  
7 each workday that Defendants did not provide all legally required and legally compliant rest  
8 periods, pursuant to Labor Code section 226.7 and the Wage Order.

9 88. Plaintiffs, on behalf of themselves, the Rest Period Class, and the Rest Period  
10 Premium Wages Class seek damages and all other relief allowable, including a rest period  
11 premium wage for each workday Defendants failed to provide all legally required and legally  
12 compliant rest periods, plus pre-judgment interest.

13 **FIFTH CAUSE OF ACTION**

14 **FAILURE TO TIMELY PAY EARNED WAGES DURING EMPLOYMENT IN**  
15 **VIOLATION OF LABOR CODE SECTION 204**

16 **(Against All Defendants by Plaintiffs and the Pay Day Class)**

17 89. Plaintiffs incorporates all paragraphs above as though fully set forth herein.

18 90. Plaintiffs and the Pay Day Class have been employed by Defendants in the State of  
19 California. In California, wages must be paid at least twice during each calendar month on days  
20 designated in advance by the employer as regular paydays, subject to some exceptions. Labor  
21 Code §204(a). Wages earned between the 1st and 15th days, inclusive, of any calendar month  
22 must be paid between the 16th and the 26th day of that month and wages earned between the 16th  
23 and the last day, inclusive, of any calendar month must be paid between the 1st and 10th day of  
24 the following month. *Id.* Other payroll periods such as those that are weekly, biweekly, or  
25 semimonthly, must be paid within seven (7) calendar days following the close of the payroll  
26 period in which wages were earned. Labor Code §204(d).

27 91. As a derivative of Plaintiffs' claims above, Plaintiffs allege that Defendants failed  
28 to timely pay Plaintiffs' and the Pay Day Class' earned wages (including minimum wages,

1 overtime wages, reporting time wages, meal period premium wages, and/or rest period premium  
2 wages), in violation of Labor Code section 204.

3 92. Defendants' aforementioned policies, practices, and/or procedures resulted in their  
4 failure to pay Plaintiffs and the Pay Day Class their earned wages within the applicable time  
5 frames outlined in Labor Code section 204.

6 93. Defendants' failure to timely pay Plaintiffs and the Pay Day Class their earned  
7 wages in accordance with Labor Code section 204 was willful. Defendants had the ability to  
8 timely pay all wages earned by hourly workers in accordance with Labor Code section 204, but  
9 intentionally adopted policies or practices incompatible with the requirements of Labor Code  
10 section 204. When Defendants failed to timely pay Plaintiffs and the Pay Day Class all earned  
11 wages, they knew what they were doing and intended to do what they did.

12 94. As a result of Defendants' unlawful conduct, Plaintiffs and the Pay Day Class have  
13 suffered damages in an amount subject to proof, to the extent that they were not timely paid their  
14 earned wages pursuant to Labor Code section 204.

15 95. Pursuant to Labor Code section 210, Plaintiffs and the Pay Day Class are entitled to  
16 recover civil penalties as follows: (1) for any initial violation, one hundred dollars (\$100) for each  
17 failure to pay each employee; and (2) for each subsequent violation, or any willful or intentional  
18 violation, two hundred dollars (\$200) for each failure to pay each employee, plus twenty-five  
19 (25%) percent of the amount unlawfully withheld.

20 **SIXTH CAUSE OF ACTION**

21 **FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN**

22 **VIOLATION OF LABOR CODE SECTION 226**

23 **(Against All Defendants by Plaintiffs and the Wage Statement Class)**

24 96. Plaintiffs incorporates all paragraphs above as though fully set forth herein.

25 97. At all times relevant to this Complaint, Plaintiffs and the Wage Statement Class  
26 were hourly, non-exempt employees of Defendants, covered by Labor Code section 226.

27 98. Pursuant to Labor Code section 226, subdivision (a), Plaintiffs and the Wage  
28 Statement Class were entitled to receive, semimonthly or at the time of each payment of wages, an

1 itemized wage statement accurately stating the following:

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

16 99. As a derivative of Defendants' claims above, Plaintiffs allege that Defendants  
17 failed to provide accurate wage and hour statements to them and the Wage Statement Class who  
18 were subject to Defendants' control for uncompensated time and who did not receive all their  
19 earned wages (including minimum wages, overtime wages, meal period premium wages, and/or  
20 rest period premium wages), in violation of Labor Code section 226.

21 100. Defendants provided Plaintiffs and the Wage Statement Class with itemized  
22 statements which stated inaccurate information including, but not limited to, the number of hours  
23 worked, the gross wages earned, and the net wages earned.

24 101. Defendants' failure to provide Plaintiffs and the Wage Statement Class with  
25 accurate wage statements was knowing and intentional. Defendants had the ability to provide  
26 Plaintiffs and the Wage Statement Class with accurate wage statements but intentionally provided  
27 wage statements they knew were not accurate. Defendants knowingly and intentionally put in  
28 place practices which deprived employees of wages and resulted in Defendants knowingly and  
intentionally providing inaccurate wage statements. These practices included Defendants' failure  
to include all hours worked and all wages due.

102. As a result of Defendants' unlawful conduct, Plaintiffs and the Wage Statement  
Class have suffered injury. The absence of accurate information on their wage statements has  
prevented earlier challenges to Defendants' unlawful pay practices, will require discovery and  
mathematical computations to determine the amount of wages owed, and will cause difficulty and



1 expense in attempting to reconstruct time and pay records. Defendants' conduct led to the  
2 submission of inaccurate information about wages and amounts deducted from wages to state and  
3 federal government agencies. As a result, Plaintiffs and the Wage Statement Class are required to  
4 participate in this lawsuit and create more difficulty and expense for Plaintiffs and the Wage  
5 Statement Class from having to reconstruct time and pay records than if Defendants had complied  
6 with their legal obligations.

7 103. Pursuant to Labor Code section 226(e), Plaintiffs and the Wage Statement Class are  
8 entitled to recover fifty (50) dollars per employee for the initial pay period in which a section 226  
9 violation occurred and one hundred dollars per employee per violation for each subsequent pay  
10 period, not to exceed an aggregate penalty of four thousand (4,000) dollars per employee.

11 104. Pursuant to Labor Code section 226(h), Plaintiffs and the Wage Statement Class are  
12 entitled to bring an action for injunctive relief to ensure Defendants' compliance with Labor Code  
13 section 226(a). Injunctive relief is warranted because Defendants continue to provide currently  
14 employed Wage Statement Class members with inaccurate wage statements in violation of Labor  
15 Code section 226(a) and currently employed Wage Statement Class members have no adequate  
16 legal remedy for the continuing injuries that will be suffered as a result of Defendants' ongoing  
17 unlawful conduct. Injunctive relief is the only remedy available for ensuring Defendants'  
18 compliance with Labor Code section 226(a).

19 105. Pursuant to Labor Code sections 226(e) and 226(h), Plaintiffs and the Wage  
20 Statement Class are entitled to recover the full amount of penalties due under Section 226(e),  
21 reasonable attorneys' fees, and costs of suit.

22 **SEVENTH CAUSE OF ACTION**

23 **FAILURE TO PAY ALL WAGES TIMELY UPON SEPARATION OF EMPLOYMENT**

24 **IN VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**

25 **(Against All Defendants by Plaintiffs and the Waiting Time Class)**

26 106. Plaintiffs incorporates all paragraphs above as though fully set forth herein.

27 107. At all times relevant to this Complaint, Plaintiffs and the Waiting Time Class were  
28 employees of Defendants, covered by Labor Code sections 201 and 202.

1           108. An employer is required to pay all unpaid wages timely after an employee's  
2 employment ends. The wages are due immediately upon termination or within seventy-two (72)  
3 hours of resignation. Labor Code §§201, 202. If an employee gave seventy-two (72) hours  
4 previous notice, they were entitled to payment of all wages earned and unpaid at the time of  
5 resignation. *Id.*

6           109. Defendants failed to pay Plaintiffs and on information and belief, the Waiting Time  
7 Class, with all wages earned and unpaid prior to separation of employment, in accordance with  
8 either Labor Code section 201 or 202. Plaintiffs are informed and believes and thereon alleges that  
9 at all relevant times within the limitations period applicable to this cause of action, Defendants  
10 maintained a policy or practice of not paying hourly employees all earned wages timely upon  
11 separation of employment. Furthermore, Plaintiffs allege Defendants committed direct violations  
12 of Labor Code section 203, through their policies, practices, and/or procedures, including, but not  
13 limited to failing to issue wages to Plaintiffs and the Waiting Time Class within seventy-two (72)  
14 hours of resignation. For example, Defendants provided Plaintiff BLANCA GARCIA with final  
15 wages one (1) day late.

16           110. Defendants' failure to pay Plaintiffs and the Waiting Time Class with all wages  
17 earned prior to separation of employment timely in accordance with Labor Code sections 201 and  
18 202 was willful. Defendants had the ability to pay all wages earned by hourly workers prior to  
19 separation of employment in accordance with Labor Code sections 201 and 202, but intentionally  
20 adopted policies or practices incompatible with the requirements of Labor Code sections 201 and  
21 202. Defendants' practices include failing to pay at least minimum wage for all time worked,  
22 overtime wages for all overtime hours worked, meal period premium wages, and/or rest period  
23 premium wages. When Defendants failed to pay Plaintiffs and the Waiting Time Class all earned  
24 wages timely upon separation of employment, they knew what they were doing and intended to do  
25 what they did.

26           111. Pursuant to either Labor Code section 201 or 202, Plaintiffs and the Waiting Time  
27 Class are entitled to all wages earned prior to separation of employment that Defendants have yet  
28 to pay them.

1 112. Pursuant to Labor Code section 203, Plaintiffs and the Waiting Time Class are  
2 entitled to continuation of their wages, from the day their earned and unpaid wages were due until  
3 paid, up to a maximum of thirty (30) days.

4 113. As a result of Defendants' conduct, Plaintiffs and the Waiting Time Class have  
5 suffered damages in an amount, subject to proof, to the extent they were not paid for all wages  
6 earned prior to separation.

7 114. As a result of Defendants' conduct, Plaintiffs and the Waiting Time Class have  
8 suffered damages in an amount, subject to proof, to the extent they were not paid all continuation  
9 wages owed under Labor Code section 203.

10 115. Plaintiffs and the Waiting Time Class are entitled to recover the full amount of  
11 their unpaid wages, continuation wages under Labor Code section 203, and interest thereon.

12 **EIGHTH CAUSE OF ACTION**

13 **UNFAIR BUSINESS PRACTICES, IN VIOLATION OF BUSINESS AND PROFESSIONS**

14 **CODE SECTION 17200, et seq.**

15 **(Against All Defendants by Plaintiffs and the California Class)**

16 116. Plaintiffs incorporates all paragraphs above as though fully set forth herein.

17 117. The unlawful conduct of Defendants alleged herein constitutes unfair competition  
18 within the meaning of Business and Professions Code section 17200. This unfair conduct includes  
19 Defendants' use of policies, practices, and/or procedures which resulted in: failure to pay  
20 employees at least at the minimum wage rate for all hours which they worked; failure to pay  
21 overtime wages for all overtime hours worked; failure to authorize or permit all legally required  
22 and compliant meal periods or pay meal period premium wages; failure to authorize or permit all  
23 legally required and compliant rest periods or pay rest period premium wages; failure to timely  
24 pay wages; failure to provide accurate wage and hour statements; and failure to timely pay all  
25 wages due upon separation of employment. Due to their unfair and unlawful business practices in  
26 violation of the Labor Code, Defendants have gained a competitive advantage over other  
27 comparable companies doing business in the State of California that comply with their obligations  
28 to pay minimum wages for all hours worked; pay overtime wages for all overtime hours worked;

1 pay reporting time pay; authorize or permit all legally required and compliant meal periods or pay  
2 meal period premium wages; authorize or permit all legally required and compliant rest periods or  
3 pay rest period premium wages; timely pay wages; provide accurate wage and hour statements;  
4 and timely pay all wages due upon separation of employment.

5 118. As a result of Defendants' unfair competition as alleged herein, Plaintiffs and the  
6 California Class have suffered injury in fact and lost money or property, as described in more  
7 detail above.

8 119. Pursuant to Business and Professions Code section 17203, Plaintiffs and the  
9 California Class are entitled to restitution of all wages and other monies rightfully belonging to  
10 them that Defendants failed to pay and wrongfully retained by means of their unlawful and unfair  
11 business practices. Plaintiffs also seeks an injunction against Defendants on behalf of the  
12 California Class enjoining Defendants, and any and all persons acting in concert with them, from  
13 engaging in each of the unlawful policies, practices, and/or procedures set forth herein.

14 **PRAYER FOR RELIEF**

15 **WHEREFORE, PLAINTIFFS ON THEIR OWN BEHALF AND ON BEHALF OF**  
16 **THOSE SIMILARLY SITUATED, PRAYS AS FOLLOWS:**

17 **ON THE FIRST, SECOND, THIRD, FOURTH, FIFTH, SIXTH, SEVENTH, AND**  
18 **EIGHTH CAUSES OF ACTION:**

19 1. That the Court determine that this action may be maintained as a class action (for  
20 the entire California Class and/or any and all of the specified sub-classes) pursuant to Code of  
21 Civil Procedure section 382 and any other applicable law;

22 2. That the named Plaintiffs be designated as class representatives for the California  
23 Class (and all sub-classes thereof);

24 3. For a declaratory judgment that the policies, practices, and/or procedures  
25 complained herein are unlawful; and

26 4. For an injunction against Defendants enjoining them, and any and all persons  
27 acting in concert with them, from engaging in each of the unlawful policies, practices, and/or  
28 procedures set forth herein.

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**ON THE FIRST CAUSE OF ACTION:**

1. That Defendants be found to have violated the minimum wage provisions of the Labor Code and the IWC Wage Order as to Plaintiffs and the Minimum Wage Class;
2. For damages, according to proof, including but not limited to unpaid wages;
3. For any and all legally applicable penalties;
4. For liquidated damages pursuant to Labor Code section 1194.2;
5. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 1194, and post-judgment interest;
6. For attorneys' fees and costs of suit, including but not limited to that recoverable under Labor Code section 1194;
7. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and,
8. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

**ON THE SECOND CAUSE OF ACTION:**

1. That Defendants be found to have violated the overtime provisions of the Labor Code and the IWC Wage Order as to Plaintiffs and the Overtime Class;
2. For damages, according to proof, including but not limited to unpaid wages;
3. For any and all legally applicable penalties;
4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 1194, and post-judgment interest;
5. For attorneys' fees and costs of suit, including but not limited to that recoverable under Labor Code section 1194; and
6. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

**ON THE THIRD CAUSE OF ACTION:**

1. That Defendants be found to have violated the meal period provisions of the Labor Code and the IWC Wage Order as to Plaintiffs and the Meal Period Class;

- 1           2.     For damages, according to proof, including unpaid premium wages;
- 2           3.     For any and all legally applicable penalties;
- 3           4.     For pre-judgment interest, including but not limited to that recoverable under Labor
- 4 Code section 218.6, and post-judgment interest; and
- 5           5.     For such other further relief, in law and/or equity, as the Court deems just or
- 6 appropriate.

**ON THE FOURTH CAUSE OF ACTION:**

- 8           1.     That Defendants be found to have violated the rest period provisions of the Labor
- 9 Code and the IWC Wage Order as to Plaintiffs and the Rest Period Class;
- 10          2.     For damages, according to proof, including unpaid premium wages;
- 11          3.     For any and all legally applicable penalties;
- 12          4.     For pre-judgment interest, including but not limited to that recoverable under Labor
- 13 Code section 218.6, and post-judgment interest; and
- 14          5.     For such other further relief, in law and/or equity, as the Court deems just or
- 15 appropriate.

**ON THE FIFTH CAUSE OF ACTION:**

- 17          1.     That Defendants be found to have violated Labor Code 204 as to Plaintiffs and the
- 18 Pay Day Class;
- 19          2.     For damages, according to proof;
- 20          3.     For any and all legally applicable penalties, including but not limited to those
- 21 recoverable pursuant to Labor Code section 210(a);
- 22          4.     For pre-judgment interest, including but not limited to that recoverable under Labor
- 23 Code section 218.6, and post-judgment interest; and
- 24          5.     For such other further relief, in law and/or equity, as the Court deems just or
- 25 appropriate.

**ON THE SIXTH CAUSE OF ACTION:**

- 27          1.     That Defendants be found to have violated the provisions of the Labor Code
- 28 regarding accurate itemized paystubs as to Plaintiffs and the Wage Statement Class;

1           2.       For damages and/or penalties, according to proof, including damages and/or  
2 statutory penalties under Labor Code section 226, subdivision (e), and any other legally applicable  
3 damages or penalties;

4           3.       For pre-judgment interest and post-judgment interest;

5           4.       For an injunction against Defendants enjoining them, and any and all persons  
6 acting in concert with them, from engaging in violations of Labor Code section 226(a);

7           5.       For attorneys’ fees and costs of suit, including but not limited to that recoverable  
8 under Labor Code section 226, subdivision (e); and,

9           6.       For such other further relief, in law and/or equity, as the Court deems just or  
10 appropriate.

11   **ON THE SEVENTH CAUSE OF ACTION:**

12           1.       That Defendants be found to have violated the provisions of the Labor Code  
13 regarding payment of all unpaid wages due upon resignation or termination as to Plaintiffs and the  
14 Waiting Time Class;

15           2.       For damages and/or penalties, according to proof, including damages and/or  
16 statutory penalties under Labor Code section 203 and any other legally applicable damages or  
17 penalties;

18           3.       For pre-judgment interest, including under Labor Code section 218.6, and post-  
19 judgment interest; and,

20           4.       For such other further relief, in law and/or equity, as the Court deems just or  
21 appropriate.

22   **ON THE EIGHTH CAUSE OF ACTION:**

23           1.       That Defendants be found to have violated Business and Professions Code sections  
24 17200, *et seq.*, for the conduct alleged herein as to the California Class;

25           2.       A declaratory judgment that the practices complained herein are unlawful;

26           3.       An injunction against Defendants enjoining them, and any and all persons acting in  
27 concert with them, from engaging in each of the unlawful practices, policies and patterns set forth  
28 herein;

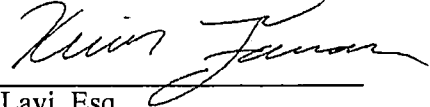
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4. For restitution to the full extent permitted by law; and

5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

Dated: July 7, 2021

Respectfully submitted,  
**LAVI & EBRAHIMIAN, LLP**

By:   
Joseph Lavi, Esq.  
Vincent C. Granberry, Esq.  
Kevin Joseph Farnan, Esq.  
Sahag Majarian II, Esq.

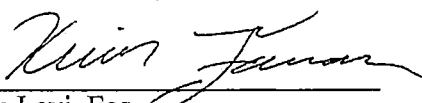
Attorneys for Plaintiffs  
BLANCA GARCIA and MATILDE CABRERA  
on behalf of themselves and others similarly situated

**DEMAND FOR JURY TRIAL**

Plaintiffs BLANCA GARCIA and MATILDE CABRERA demand a trial by jury for themselves and the California Class on all claims so triable.

Dated: July 7, 2021

Respectfully submitted,  
**LAVI & EBRAHIMIAN, LLP**

By:   
Joseph Lavi, Esq.  
Vincent C. Granberry, Esq.  
Kevin Joseph Farnan, Esq.  
Sahag Majarian II, Esq.

Attorneys for Plaintiffs  
BLANCA GARCIA and MATILDE CABRERA  
on behalf of themselves and others similarly situated



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| <b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b><br>STREET ADDRESS: 330 West Broadway<br>MAILING ADDRESS: 330 West Broadway<br>CITY, STATE, & ZIP CODE: San Diego, CA 92101-3827<br>BRANCH NAME: Central | <b>FOR COURT USE ONLY</b>                  |
| PLAINTIFF(S): Blanca Garcia et.al.   |  |
| DEFENDANT(S): ACUSHNET COMPANY   |  |
| SHORT TITLE: GARCIA VS ACUSHNET COMPANY [E-FILE]   |  |
| <b>STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR)</b>   | CASE NUMBER:<br>37-2021-00029094-CU-OE-CTL |

Judge: Keri Katz

Department: C-74

The parties and their attorneys stipulate that the matter is at issue and the claims in this action shall be submitted to the following alternative dispute resolution (ADR) process. Selection of any of these options will not delay any case management timelines.

- |   |  |
|---|--|
| <input type="checkbox"/> Mediation (court-connected)  | <input type="checkbox"/> Non-binding private arbitration   |
| <input type="checkbox"/> Mediation (private)  | <input type="checkbox"/> Binding private arbitration   |
| <input type="checkbox"/> Voluntary settlement conference (private)                            | <input type="checkbox"/> Non-binding judicial arbitration (discovery until 15 days before trial) |
| <input type="checkbox"/> Neutral evaluation (private)   | <input type="checkbox"/> Non-binding judicial arbitration (discovery until 30 days before trial) |
| <input type="checkbox"/> Other (specify e.g., private mini-trial, private judge, etc.): _____ |  |

It is also stipulated that the following shall serve as arbitrator, mediator or other neutral: (Name) \_\_\_\_\_

Alternate neutral (for court Civil Mediation Program and arbitration only): \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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Name of Plaintiff

\_\_\_\_\_  
Name of Defendant

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Signature

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\_\_\_\_\_  
Name of Plaintiff's Attorney

\_\_\_\_\_  
Name of Defendant's Attorney

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Signature

\_\_\_\_\_  
Signature

If there are more parties and/or attorneys, please attach additional completed and fully executed sheets.

It is the duty of the parties to notify the court of any settlement pursuant to Cal. Rules of Court, rule 3.1385. Upon notification of the settlement, the court will place this matter on a 45-day dismissal calendar.

No new parties may be added without leave of court.

**IT IS SO ORDERED.**

Dated: 07/08/2021

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

|   |  |
|---|--|
| <b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b>                    |  |
| STREET ADDRESS: 330 W Broadway  |  |
| MAILING ADDRESS: 330 W Broadway   |  |
| CITY AND ZIP CODE: San Diego, CA 92101-3827                                 |  |
| DIVISION: Central   |  |
| TELEPHONE NUMBER: (619) 450-7074  |  |
| PLAINTIFF(S) / PETITIONER(S): Blanca Garcia et.al.                          |  |
| DEFENDANT(S) / RESPONDENT(S): ACUSHNET COMPANY                              |  |
| GARCIA VS ACUSHNET COMPANY [E-FILE]   |  |
| <b>NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE<br/>(CIVIL)</b> | CASE NUMBER:<br>37-2021-00029094-CU-OE-CTL |

**CASE ASSIGNED FOR ALL PURPOSES TO:**

Judge: Keri Katz

Department: C-74

**COMPLAINT/PETITION FILED: 07/07/2021**

| TYPE OF HEARING SCHEDULED        | DATE       | TIME     | DEPT | JUDGE     |
|----------------------------------|------------|----------|------|-----------|
| Civil Case Management Conference | 02/04/2022 | 10:00 am | C-74 | Keri Katz |

**Due to the COVID-19 pandemic, all Case Management Conferences (CMCs) are being conducted virtually unless there is a court order stating otherwise.** Prior to the hearing date, visit the "virtual hearings" page for the most current instructions on how to appear for the applicable case-type/department on the court's website at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov).

A Case Management Statement (JC Form #CM-110) must be completed by counsel for all parties and by all self-represented litigants and timely filed with the court at least 15 days prior to the initial CMC. (San Diego Superior Court (SDSC) Local Rules, rule 2.1.9; Cal. Rules of Court, rule 3.725).

All counsel of record and self-represented litigants must appear at the CMC, be familiar with the case, and be fully prepared to participate effectively in the hearing, including discussions of Alternative Dispute Resolution (ADR) options.

It is the duty of each plaintiff (and cross-complainant) to serve a copy of this Notice of Case Assignment and Case Management Conference (SDSC Form #CIV-721) with the complaint (and cross-complaint), the Alternative Dispute Resolution (ADR) Information Form (SDSC Form # CIV-730), a Stipulation to Use Alternative Dispute Resolution (ADR) (SDSC Form # CIV-359), and other documents on all parties to the action as set out in SDSC Local Rules, rule 2.1.5.

**TIME FOR SERVICE AND RESPONSE:** The following rules apply to civil cases except for collections cases under California Rules of Court, rule 3.740(a), unlawful detainer actions, proceedings under the Family Code, and other proceedings for which different service requirements are prescribed by law (Cal. Rules of Court, rule 3.110; SDSC Local Rules, rule 2.1.5):

- **Service:** The complaint must be served on all named defendants, and proof of service filed with the court within 60 days after filing the complaint. An amended complaint adding a defendant must be served on the added defendant and proof of service filed within 30 days after filing of the amended complaint. A cross-complaint against a party who has appeared in the action must be accompanied by proof of service on that party at the time it is filed. If it adds a new party, the cross-complaint must be served on all parties and proof of service on the new party must be filed within 30 days of the filing of the cross-complaint.
- **Defendant's appearance:** Unless a special appearance is made, each defendant served must generally appear (as defined in Code of Civ. Proc. § 1014) within 30 days of service of the complaint/cross-complaint.
- **Extensions:** The parties may stipulate without leave of court to one 15-day extension beyond the 30-day time period prescribed for the response after service of the initial complaint (SDSC Local Rules, rule 2.1.6). If a party fails to serve and file pleadings as required under this rule, and has not obtained an order extending time to serve its pleadings, the court may issue an order to show cause why sanctions shall not be imposed.

**JURY FEES:** In order to preserve the right to a jury trial, one party for each side demanding a jury trial shall pay an advance jury fee in the amount of one hundred fifty dollars (\$150) on or before the date scheduled for the initial case management conference in the action.

**COURT REPORTERS:** Official Court Reporters are not normally available in civil matters, but may be requested in certain situations no later than 10 days before the hearing date. See SDSC Local Rules, rule 1.2.3 and Policy Regarding Normal Availability and Unavailability of Official Court Reporters (SDSC Form #ADM-317) for further information.

**ALTERNATIVE DISPUTE RESOLUTION (ADR):** The court discourages any unnecessary delay in civil actions; therefore, continuances are discouraged and timely resolution of all actions, including submitting to any form of ADR is encouraged. The court encourages and expects the parties to consider using ADR options prior to the CMC. The use of ADR will be discussed at the CMC. Prior to the CMC, parties stipulating to the ADR process may file the Stipulation to Use Alternative Dispute Resolution (SDSC Form #CIV-359).

## **NOTICE OF E-FILING REQUIREMENTS AND IMAGED DOCUMENTS**

Effective April 15, 2021, e-filing is required for attorneys in represented cases in all limited and unlimited civil cases, pursuant to the San Diego Superior Court General Order: In Re Procedures Regarding Electronically Imaged Court Records, Electronic Filing and Access to Electronic Court Records in Civil and Probate Cases. Additionally, you are encouraged to review CIV-409 for a listing of documents that are not eligible for e-filing. E-filing is also encouraged, but not mandated, for self-represented litigants, unless otherwise ordered by the court. All e-filers are required to comply with the e-filing requirements set forth in Electronic Filing Requirements (Civil) (SDSC Form #CIV-409) and Cal. Rules of Court, rules 2.250-2.261.

All Civil cases are assigned to departments that are part of the court's "Imaging Program." This means that original documents filed with the court will be imaged, held for 30 days, and then destroyed, with the exception of those original documents the court is statutorily required to maintain. The electronic copy of the filed document(s) will be the official court record, pursuant to Government Code § 68150. Thus, original documents should not be attached to pleadings filed with the San Diego Superior Court, unless it is a document for which the law requires an original be filed. Any original documents necessary for a motion hearing or trial shall be lodged in advance of the hearing pursuant to California Rules of Court, rule 3.1302(b).

It is the duty of each plaintiff, cross-complainant, or petitioner to serve a copy of this Notice of Case Assignment and Case Management Conference (Civil) (SDSC Form #CIV-721) with the complaint, cross-complaint, or petition on all parties to the action.

On all pleadings filed after the initial case originating filing, all parties must, to the extent it is feasible to do so, place the words "IMAGED FILE" in all caps immediately under the title of the pleading on all subsequent pleadings filed in the action.

The official court file will be electronic and accessible at one of the kiosks located in the Civil Business Office and may be found on the court's website at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov).

CM-010

|   |   |
|---|---|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):<br>Joseph Lavi, Esq. (SBN 209776); Vincent C. Granberry, Esq. (SBN 276483)<br>Kevin Joseph Farnan, Esq. (SBN 327524)<br>LAVI & EBRAHIMIAN, LLP ; 8889 West Olympic Boulevard, Suite 200<br>Beverly Hills, CA, 90211<br>TELEPHONE NO.: (310) 432-0000 FAX NO.: (310) 432-0001<br>ATTORNEY FOR (Name): <b>BLANCA GARCIA &amp; MATILDE CABRERA, et al.</b> | FOR COURT USE ONLY<br><br><b>ELECTRONICALLY FILED</b><br>Superior Court of California,<br>County of San Diego<br><br><b>07/07/2021</b> at 03:22:15 PM<br>Clerk of the Superior Court<br>By Ivelinda Ivelure, Deputy Clerk   |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF <b>San Diego</b><br>STREET ADDRESS: <b>330 W. BROADWAY</b><br>MAILING ADDRESS: <b>330 W. BROADWAY</b><br>CITY AND ZIP CODE: <b>San Diego, California 92101</b><br>BRANCH NAME: <b>Hall of Justice</b>   | CASE NUMBER:<br><b>37-2021-00029094-CU-OE-CTL</b><br><br>JUDGE:<br>DEPT: <b>Judge Keri Katz</b>   |
| CASE NAME:<br><b>GARCIA, B. v. ACUSHNET COMPANY</b>   | <b>CIVIL CASE COVER SHEET</b><br><input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000) <input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less)<br><br><input type="checkbox"/> <b>Counter</b> <input type="checkbox"/> <b>Joinder</b><br>Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402) |

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

|   |  |  |
|---|--|--|
| <b>Auto Tort</b><br><input type="checkbox"/> Auto (22)<br><input type="checkbox"/> Uninsured motorist (46)<br><b>Other PI/PI/D/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b><br><input type="checkbox"/> Asbestos (04)<br><input type="checkbox"/> Product liability (24)<br><input type="checkbox"/> Medical malpractice (45)<br><input type="checkbox"/> Other PI/PI/D/WD (23)<br><b>Non-PI/PI/D/WD (Other) Tort</b><br><input type="checkbox"/> Business tort/unfair business practice (07)<br><input type="checkbox"/> Civil rights (08)<br><input type="checkbox"/> Defamation (13)<br><input type="checkbox"/> Fraud (16)<br><input type="checkbox"/> Intellectual property (19)<br><input type="checkbox"/> Professional negligence (25)<br><input type="checkbox"/> Other non-PI/PI/D/WD tort (35)<br><b>Employment</b><br><input type="checkbox"/> Wrongful termination (36)<br><input checked="" type="checkbox"/> Other employment (15) | <b>Contract</b><br><input type="checkbox"/> Breach of contract/warranty (06)<br><input type="checkbox"/> Rule 3.740 collections (09)<br><input type="checkbox"/> Other collections (09)<br><input type="checkbox"/> Insurance coverage (18)<br><input type="checkbox"/> Other contract (37)<br><b>Real Property</b><br><input type="checkbox"/> Eminent domain/Inverse condemnation (14)<br><input type="checkbox"/> Wrongful eviction (33)<br><input type="checkbox"/> Other real property (26)<br><b>Unlawful Detainer</b><br><input type="checkbox"/> Commercial (31)<br><input type="checkbox"/> Residential (32)<br><input type="checkbox"/> Drugs (38)<br><b>Judicial Review</b><br><input type="checkbox"/> Asset forfeiture (05)<br><input type="checkbox"/> Petition re: arbitration award (11)<br><input type="checkbox"/> Writ of mandate (02)<br><input type="checkbox"/> Other judicial review (39) | <b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b><br><input type="checkbox"/> Antitrust/Trade regulation (03)<br><input type="checkbox"/> Construction defect (10)<br><input type="checkbox"/> Mass tort (40)<br><input type="checkbox"/> Securities litigation (28)<br><input type="checkbox"/> Environmental/Toxic tort (30)<br><input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)<br><b>Enforcement of Judgment</b><br><input type="checkbox"/> Enforcement of judgment (20)<br><b>Miscellaneous Civil Complaint</b><br><input type="checkbox"/> RICO (27)<br><input type="checkbox"/> Other complaint (not specified above) (42)<br><b>Miscellaneous Civil Petition</b><br><input type="checkbox"/> Partnership and corporate governance (21)<br><input type="checkbox"/> Other petition (not specified above) (43) |
|---|--|--|

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

|   |  |
|---|--|
| a. <input type="checkbox"/> Large number of separately represented parties<br>b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve<br>c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence | d. <input checked="" type="checkbox"/> Large number of witnesses<br>e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court<br>f. <input checked="" type="checkbox"/> Substantial postjudgment judicial supervision |
|---|--|

3. Remedies sought (check all that apply): a.  monetary     b.  nonmonetary; declaratory or injunctive relief     c.  punitive

4. Number of causes of action (specify): **Eight (8)**

5. This case  is  is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: **July 7, 2021**  
**Kevin Joseph Farnan, Esq.**  
(TYPE OR PRINT NAME)

Digitally signed by Kevin Joseph Farnan  
 DN: cn=Kevin Joseph Farnan, o=Lavi and Ibrahimian LLP,  
 ou, email=farnan@laviandibrahimian.com, c=US  
 Date: 2021.07.07 14:04:00 -0700  
**Kevin Joseph Farnan**  
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

CM-010

**INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET**

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

**CASE TYPES AND EXAMPLES****Auto Tort**

Auto (22)–Personal Injury/Property Damage/Wrongful Death  
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

**Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort**

Asbestos (04)  
Asbestos Property Damage  
Asbestos Personal Injury/Wrongful Death  
Product Liability (*not asbestos or toxic/environmental*) (24)  
Medical Malpractice (45)  
Medical Malpractice–Physicians & Surgeons  
Other Professional Health Care Malpractice  
Other PI/PD/WD (23)  
Premises Liability (e.g., slip and fall)  
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)  
Intentional Infliction of Emotional Distress  
Negligent Infliction of Emotional Distress  
Other PI/PD/WD

**Non-PI/PD/WD (Other) Tort**

Business Tort/Unfair Business Practice (07)  
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)  
Defamation (e.g., slander, libel) (13)  
Fraud (16)  
Intellectual Property (19)  
Professional Negligence (25)  
Legal Malpractice  
Other Professional Malpractice (*not medical or legal*)  
Other Non-PI/PD/WD Tort (35)

**Employment**

Wrongful Termination (36)  
Other Employment (15)

**Contract**

Breach of Contract/Warranty (06)  
Breach of Rental/Lease  
Contract (*not unlawful detainer or wrongful eviction*)  
Contract/Warranty Breach–Seller Plaintiff (*not fraud or negligence*)  
Negligent Breach of Contract/Warranty  
Other Breach of Contract/Warranty  
Collections (e.g., money owed, open book accounts) (09)  
Collection Case–Seller Plaintiff  
Other Promissory Note/Collections Case  
Insurance Coverage (*not provisionally complex*) (18)  
Auto Subrogation  
Other Coverage  
Other Contract (37)  
Contractual Fraud  
Other Contract Dispute

**Real Property**

Eminent Domain/Inverse Condemnation (14)  
Wrongful Eviction (33)  
Other Real Property (e.g., quiet title) (26)  
Writ of Possession of Real Property  
Mortgage Foreclosure  
Quiet Title  
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

**Unlawful Detainer**

Commercial (31)  
Residential (32)  
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

**Judicial Review**

Asset Forfeiture (05)  
Petition Re: Arbitration Award (11)  
Writ of Mandate (02)  
Writ–Administrative Mandamus  
Writ–Mandamus on Limited Court Case Matter  
Writ–Other Limited Court Case Review  
Other Judicial Review (39)  
Review of Health Officer Order  
Notice of Appeal–Labor  
Commissioner Appeals

**Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)**

Antitrust/Trade Regulation (03)  
Construction Defect (10)  
Claims Involving Mass Tort (40)  
Securities Litigation (28)  
Environmental/Toxic Tort (30)  
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

**Enforcement of Judgment**

Enforcement of Judgment (20)  
Abstract of Judgment (Out of County)  
Confession of Judgment (*non-domestic relations*)  
Sister State Judgment  
Administrative Agency Award (*not unpaid taxes*)  
Petition/Certification of Entry of Judgment on Unpaid Taxes  
Other Enforcement of Judgment Case

**Miscellaneous Civil Complaint**

RICO (27)  
Other Complaint (*not specified above*) (42)  
Declaratory Relief Only  
Injunctive Relief Only (*non-harassment*)  
Mechanics Lien  
Other Commercial Complaint Case (*non-tort/non-complex*)  
Other Civil Complaint (*non-tort/non-complex*)

**Miscellaneous Civil Petition**

Partnership and Corporate Governance (21)  
Other Petition (*not specified above*) (43)  
Civil Harassment  
Workplace Violence  
Elder/Dependent Adult Abuse  
Election Contest  
Petition for Name Change  
Petition for Relief From Late Claim  
Other Civil Petition



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION

CASE NUMBER: 37-2021-00029094-CU-OE-CTL CASE TITLE: GARCIA vs ACUSHNET COMPANY [E-FILE]

NOTICE: All plaintiffs/cross-complainants in a general civil case are required to serve a copy of the following three forms on each defendant/cross-defendant, together with the complaint/cross-complaint:

- (1) this Alternative Dispute Resolution (ADR) information form (SDSC form #CIV-730),
(2) the Stipulation to Use Alternative Dispute Resolution (ADR) form (SDSC form #CIV-359), and
(3) the Notice of Case Assignment form (SDSC form #CIV-721).

Most civil disputes are resolved without filing a lawsuit, and most civil lawsuits are resolved without a trial. The courts, community organizations, and private providers offer a variety of Alternative Dispute Resolution (ADR) processes to help people resolve disputes without a trial.

Below is some information about the potential advantages and disadvantages of ADR, the most common types of ADR, and how to find a local ADR program or neutral. A form for agreeing to use ADR is attached (SDSC form #CIV-359).

Potential Advantages and Disadvantages of ADR

ADR may have a variety of advantages or disadvantages over a trial, depending on the type of ADR process used and the particular case:

Potential Advantages

- Saves time
Saves money
Gives parties more control over the dispute resolution process and outcome
Preserves or improves relationships

Potential Disadvantages

- May take more time and money if ADR does not resolve the dispute
Procedures to learn about the other side's case (discovery), jury trial, appeal, and other court protections may be limited or unavailable

Most Common Types of ADR

You can read more information about these ADR processes and watch videos that demonstrate them on the court's ADR webpage at http://www.sdcourt.ca.gov/adr.

Mediation: A neutral person called a "mediator" helps the parties communicate in an effective and constructive manner so they can try to settle their dispute. The mediator does not decide the outcome, but helps the parties to do so. Mediation is usually confidential, and may be particularly useful when parties want or need to have an ongoing relationship, such as in disputes between family members, neighbors, co-workers, or business partners, or when parties want to discuss non-legal concerns or creative resolutions that could not be ordered at a trial.

Settlement Conference: A judge or another neutral person called a "settlement officer" helps the parties to understand the strengths and weaknesses of their case and to discuss settlement. The judge or settlement officer does not make a decision in the case but helps the parties to negotiate a settlement. Settlement conferences may be particularly helpful when the parties have very different ideas about the likely outcome of a trial and would like an experienced neutral to help guide them toward a resolution.

Arbitration: A neutral person called an "arbitrator" considers arguments and evidence presented by each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are usually relaxed. If the parties agree to binding arbitration, they waive their right to a trial and agree to accept the arbitrator's decision as final. With nonbinding arbitration, any party may reject the arbitrator's decision and request a trial. Arbitration may be appropriate when the parties want another person to decide the outcome of their dispute but would like to avoid the formality, time, and expense of a trial.

**Other ADR Processes:** There are several other types of ADR which are not offered through the court but which may be obtained privately, including neutral evaluation, conciliation, fact finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR processes. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute. Be sure to learn about the rules of any ADR program and the qualifications of any neutral you are considering, and about their fees.

### **Local ADR Programs for Civil Cases**

**Mediation:** The San Diego Superior Court maintains a Civil Mediation Panel of approved mediators who have met certain minimum qualifications and have agreed to charge \$150 per hour for each of the first two (2) hours of mediation and their regular hourly rate thereafter in court-referred mediations.

**On-line mediator search and selection:** Go to the court's ADR webpage at [www.sdcourt.ca.gov/adr](http://www.sdcourt.ca.gov/adr) and click on the "Mediator Search" to review individual mediator profiles containing detailed information about each mediator including their dispute resolution training, relevant experience, ADR specialty, education and employment history, mediation style, and fees and to submit an on-line Mediator Selection Form (SDSC form #CIV-005). The Civil Mediation Panel List, the Available Mediator List, individual Mediator Profiles, and Mediator Selection Form (CIV-005) can also be printed from the court's ADR webpage and are available at the Mediation Program Office or Civil Business Office at each court location.

**Settlement Conference:** The judge may order your case to a mandatory settlement conference, or voluntary settlement conferences may be requested from the court if the parties certify that: (1) settlement negotiations between the parties have been pursued, demands and offers have been tendered in good faith, and resolution has failed; (2) a judicially supervised settlement conference presents a substantial opportunity for settlement; and (3) the case has developed to a point where all parties are legally and factually prepared to present the issues for settlement consideration and further discovery for settlement purposes is not required. Refer to SDSC Local Rule 2.2.1 for more information. To schedule a settlement conference, contact the department to which your case is assigned.

**Arbitration:** The San Diego Superior Court maintains a panel of approved judicial arbitrators who have practiced law for a minimum of five years and who have a certain amount of trial and/or arbitration experience. Refer to SDSC Local Rules Division II, Chapter III and Code Civ. Proc. § 1141.10 et seq or contact the Arbitration Program Office at (619) 450-7300 for more information.

**More information about court-connected ADR:** Visit the court's ADR webpage at [www.sdcourt.ca.gov/adr](http://www.sdcourt.ca.gov/adr) or contact the court's Mediation/Arbitration Office at (619) 450-7300.

**Dispute Resolution Programs Act (DRPA) funded ADR Programs:** The following community dispute resolution programs are funded under DRPA (Bus. and Prof. Code §§ 465 et seq.):

- In Central, East, and South San Diego County, contact the National Conflict Resolution Center (NCRC) at [www.ncrconline.com](http://www.ncrconline.com) or (619) 238-2400.
- In North San Diego County, contact North County Lifeline, Inc. at [www.nclifeline.org](http://www.nclifeline.org) or (760) 726-4900.

**Private ADR:** To find a private ADR program or neutral, search the Internet, your local telephone or business directory, or legal newspaper for dispute resolution, mediation, settlement, or arbitration services.

### **Legal Representation and Advice**

To participate effectively in ADR, it is generally important to understand your legal rights and responsibilities and the likely outcomes if you went to trial. ADR neutrals are not allowed to represent or to give legal advice to the participants in the ADR process. If you do not already have an attorney, the California State Bar or your local County Bar Association can assist you in finding an attorney. Information about obtaining free and low cost legal assistance is also available on the California courts website at [www.courtinfo.ca.gov/selfhelp/lowcost](http://www.courtinfo.ca.gov/selfhelp/lowcost).

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Acushnet Company Hit with Lawsuit Over Alleged California Labor Code Violations](#)

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