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7 Attorneys for Defendants
CINTAS CORPORATION NO. 3; CINTAS
8 CORPORATION NO. 2; CINTAS
CORPORATE SERVICES, INC.; and
9 CINTAS CORPORATION

10 UNITED STATES DISTRICT COURT

11 CENTRAL DISTRICT OF CALIFORNIA- WESTERN DIVISION

12 PORFIRIO LANDEROS, individually,
13 and on behalf of other members of the
general public similarly situated,

14 Plaintiff,

15 v.

16 CINTAS CORPORATION NO. 3, an
17 unknown business entity, CINTAS
CORPORATION NO. 2, an unknown
18 business entity, CINTAS CORPORATE
SERVICES, INC., an unknown business
19 entity, CINTAS CORPORATION, an
unknown business entity; and DOES 1
20 through 100, inclusive,

21 Defendants.

Case No. 2:20-cv-9931

[Los Angeles County Superior Court
Case No. 20STCV35571]

**NOTICE OF REMOVAL TO
FEDERAL COURT**

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1 **TO THE UNITED STATES DISTRICT COURT FOR THE CENTRAL**
2 **DISTRICT OF CALIFORNIA AND TO PLAINTIFF AND HIS ATTORNEYS**
3 **OF RECORD:**

4 PLEASE TAKE NOTICE that Defendants Cintas Corporation No. 3, Cintas
5 Corporation No. 2, Cintas Corporate Services, Inc., and Cintas Corporation
6 (“Defendants”), pursuant to 28 U.S.C. §§ 1332, 1441, 1446 and 1453, hereby remove
7 the above-captioned case entitled *Porfirio Landeros, et al. v. Cintas Corporation No.*
8 *3, Cintas Corporation No. 2, Cintas Corporate Services, Inc. and Cintas Corporation,*
9 which is currently pending in the Superior Court of the State of California for the
10 County of Los Angeles as Case No. 20STCV35571, to the United States District Court
11 for the Central District of California (Western Division). This Court has original
12 subject matter jurisdiction because there is complete diversity and the amount in
13 controversy for Plaintiff’s individual claim exceeds \$75,000. This Court also has
14 original jurisdiction under the Class Action Fairness Act of 2005 (“CAFA”) because
15 there is complete diversity between the plaintiff and defendants, and the amount in
16 controversy exceeds \$5,000,000, exclusive of interest and costs

17 **I. SUMMARY OF COMPLAINT**

18 On September 17, 2020, Plaintiff Porfirio Landeros (“Plaintiff” or “Landeros”)
19 filed a civil complaint on behalf of himself and all others similarly situated in the
20 action entitled *Porfirio Landeros, et al. v. Cintas Corporation No. 3, Cintas*
21 *Corporation No. 2, Cintas Corporate Services, and Cintas Corporation* in the
22 Superior Court of the State of California for the County of Los Angeles, assigned as
23 Case No. 20STCV35571. A true and correct copy of the Summons and Complaint
24 as made available from the state court’s electronic docket is attached to the
25 Declaration of Lilah Sutphen (“Sutphen Decl.”) as Exhibit 1. Other than the
26 documents contained in Exhibit 1, Defendants have not been served with any other
27 process, pleading, papers or orders to date.

28

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1 Plaintiff seeks to recover unpaid wages, damages, penalties, restitution, costs
 2 and attorneys' fees from Defendants on behalf of the proposed class based on the
 3 following causes of action asserted in the Complaint: (1) Violation of California
 4 Labor Code §§ 510 and 1198 (Unpaid Overtime); (2) Violation of California Labor
 5 Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums); (3) Violation of
 6 California Labor Code § 226.7 (Unpaid Rest Period Premiums); (4) Violation of
 7 California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (5)
 8 Violation of California Labor Code §§201 and 202 (Final Wages Not Timely Paid);
 9 (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During
 10 Employment); (7) Violation of California Labor Code § 226(a) (Non-Compliant
 11 Wage Statements); (8) Violation of California Labor Code § 1174(d) (Failure to Keep
 12 Requisite Payroll Records); (9) Violation of California Labor Code §§2800 and 2802
 13 (Unreimbursed Business Expenses); (10) Violation of California Business and
 14 Professions Code §17200, et seq. Sutphen Decl. ¶ 3, Ex. 1.

15 Plaintiff purports to bring and maintain this action as a class action under
 16 California Code of Civil Procedure §382, proposing the following class:

17 All non-exempt employees who are currently or were formerly
 18 employed by any of the Defendants in the State of California at
 19 any time from September 17, 2016, through the present.

20 Sutphen Decl. ¶ 4, Ex. 1, ¶ 16. Plaintiff reserves the right to define sub-classes. *Id.*

21 Defendants do not concede, and expressly reserve the right to later contest at
 22 the appropriate time, Plaintiff's allegations that this lawsuit may properly proceed as
 23 a class action. Defendants also do not concede that any of Plaintiff's allegations
 24 constitute a cause of action under applicable law.

25 **II. REMOVAL IS TIMELY**

26 Defendants have timely removed this action within thirty (30) days of service.
 27 Plaintiff served the registered agent for service of process for Defendants on
 28

1 September 28, 2020. Sutphen Decl., at ¶ 5. Because Defendants are removing on or
2 before October 28, 2020, removal is timely. 28 U.S.C. § 1446.

3 No previous Notice of Removal has been filed or made with this Court for the
4 relief sought herein. Sutphen Decl., at ¶ 5.

5 **III. THE COURT HAS ORIGINAL SUBJECT MATTER JURISDICTION**
6 **BECAUSE THERE IS COMPLETE DIVERSITY AND THE AMOUNT**
7 **IN CONTROVERSY EXCEEDS \$75,000**

8 The Court has original jurisdiction of this action under 28 U.S.C. section
9 1332(a)(1). As set forth below, this action is removable pursuant to the provisions
10 of 28 U.S.C. §1441(a) as the amount in controversy is in excess of \$75,000, exclusive
11 of interest and costs, and is between citizens of different states.

12 **A. Plaintiff is a Citizen of California**

13 To establish citizenship for diversity purposes, a natural person must be both:
14 (1) a citizen of the United States, and (2) domiciled in the state. *Kantor v. Wellesley*
15 *Galleries, Ltd.*, 704 F.2d 1088, 1090 (9th Cir. 1983). “A natural person is deemed to
16 be a citizen of the state where he or she is domiciled, which is where he or she resides
17 with the intention to remain.” *Zavala v. Deutsche Bank Trust co. Ams.*, 2013 U.S.
18 Dist. LEXIS 96719, at *9 (N.D. Cal. July 10, 2013) citing *Kantor*, 704 F.2d at 1090
19 and *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001)). For purposes
20 of diversity of citizenship, citizenship is determined by the individual’s domicile at
21 the time the lawsuit is filed. *Lew v. Moss*, 797 F.2d 747, 750 (9th Cir. 1986) (citing
22 *Hill v. Roller*, 615 F.2d 886, 889 (9th Cir. 1980)). Plaintiff’s Complaint alleges that
23 he “is an individual residing in the State of California, County of Los Angeles.”
24 Sutphen Decl., Ex. 1 at ¶ 5. Plaintiff was employed by Defendant Cintas Corporation
25 No. 3 at Location 0426, which is located in Long Beach, California. Knight Decl.,
26 at ¶ 15. Plaintiff provided Cintas Corporation No. 3 with information indicating that
27 his permanent residence and domicile is and was within the State of California, and
28 Plaintiff’s wage statements and tax withholding information provided to Cintas
Corporation No. 3 reflect a permanent residence in California. *Id.* at ¶ 14. Plaintiff

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1 is therefore a citizen of California for purposes of diversity jurisdiction. Plaintiff
2 does not allege any alternative state of citizenship.

3 **B. Defendants are Not a Citizen of California**

4 A corporation is a citizen of the state where (i) it has been incorporated; and
5 (ii) its principal place of business is located. 28 U.S.C. § 1332(c). The principal
6 place of business for a corporation is determined by the location of its “nerve center,”
7 which includes the location of its headquarters and the location where its “officers
8 direct, control, and coordinate the corporation’s activities.” *Hertz Corp. v. Friend*,
9 559 U.S. 77 (2010). Defendants Cintas Corporation No. 3, Cintas Corporation No.
10 2, Cintas Corporate Service, and Cintas Corporation are and have been prior to the
11 commencement of this action, incorporated in and existing under the laws of the State
12 of Nevada. Knight Decl., at ¶ 3. In addition, Defendants have their corporate
13 headquarters and principal place of business in Ohio. *Id.* The Ohio headquarters is
14 and has been the place where the majority of Defendants’ corporate books and
15 records are located, where the majority of their executive and administrative
16 functions are (including, but not limited to, operations, finance, accounting, human
17 resources, payroll, marketing, legal, etc.) and where the majority of their officers and
18 directors direct, control and coordinate the corporation’s activities. *Id.* As a result,
19 Defendants are not now, nor ever have been, a citizen and/or resident of the state of
20 California within the meaning of the Acts of Congress relating to the removal of class
21 actions. 28 U.S.C. § 1332(c)(1); *Hertz*, 559 U.S. at 97. Accordingly, Defendants are
22 not considered citizens of California for the purposes of determining diversity. Does
23 1 through 100 are wholly fictitious as the Complaint does not identify any of the Does
24 1 through 100 nor does it allege any facts about them. Thus, these “Doe” defendants
25 are disregarded for purposes of removal and have no effect on the ability to remove.
26 28 U.S.C. 1441(b)(1); *Newcombe v. Adolf Coors Co.*, 157 F.3d 686, 690 (9th Cir.
27 1998) (noting that citizenship of defendants sued under fictitious names “shall be
28 disregarded for purposes of removal”).

1 Accordingly, based on the Complaint and the above, complete diversity of
 2 citizenship exists because Plaintiff and all named Defendants are citizens of different
 3 states. 28 U.S.C. § 1332(a) (“The district courts shall have original jurisdiction of all
 4 civil actions where the matter in controversy exceeds the sum or value of \$75,000,
 5 exclusive of interest and costs, and is between—[] citizens of different States”).
 6 Further, a defendant may remove an action from state court to federal court if the
 7 defendant is not a citizen where the action was brought. 28 U.S.C. § 1441(a)-(b).

8 **C. The Amount in Controversy Exceeds \$75,000**

9 Federal district courts have original jurisdiction over civil actions where the
 10 matter in controversy exceeds the sum or value of \$75,000, excluding interests and
 11 costs. 28 U.S.C. § 1332(a); *Hunt v. Wash. State Apple Advertising Comm’n*, 432 U.S.
 12 333 (1977). When measuring the amount in controversy, a court should assume the
 13 truth of the allegations in the complaint and that a jury will return a verdict in favor
 14 of plaintiff on all claims. *Kenneth Rothschild Trust v. Morgan Stanley Dean Witter*,
 15 199 F. Supp. 2d 993, 1001 (C.D. Cal.2002). “The ultimate inquiry is what amount is
 16 put ‘in controversy’ by the plaintiff’s complaint, not what a defendant will actually
 17 owe.” *Korn v. Polo Ralph Lauren Corp.*, 536 F. Supp. 2d 1199, 1205 (E.D. Cal.
 18 2008); *Rippee v. Boston Market Corp.*, 408 F. Supp. 2d 982, 986 (S.D. Cal. 2005).
 19 In cases such as this, where the complaint alleges damages less than \$75,000, the
 20 removing defendant bears the burden of proving “to a legal certainty” that Plaintiff
 21 will recover at least \$75,000 if successful. *Roe v. TeleTech Customer Care Mgmt.,*
 22 *LLC*, 2007 U.S. Dist. LEXIS 41112, *8 (9th Cir. 1996). The Court should consider
 23 the allegations in the Complaint in addition to facts asserted in Defendants’ Notice
 24 of Removal and other evidence submitted in support thereof. *Lowdermilk v. U.S.*
 25 *Nat’l Assoc.*, 479 F.3d 994, 1002 (9th Cir. 2007).

26 In determining the amount in controversy, the Court must consider the general
 27 damages, special damages, penalties, punitive damages, and attorneys’ fees put “in
 28 controversy” by the plaintiff’s complaint. *Bank of Calif. Nat’l Ass’n v. Twin Harbors*

1 *Lumber Co.*, 465 F.2d 489, 491 (9th Cir. 1972); *see also Simmons v. PCR Tech.*, 209
2 F. Supp. 2d 1029, 1031 (N.D. Cal. 2002) (“The jurisdictional minimum may be
3 satisfied by claims for special and general damages, attorneys’ fees and punitive
4 damages.”); *Brady v. Mercedes-Benz USA, Inc.*, 243 F. Supp. 2d 1004, 1009 (N.D.
5 Cal. 2002) (explaining penalties are properly included in calculating amount in
6 controversy).

7 Plaintiff’s Complaint alleges that Defendants failed to provide Plaintiff and
8 other class members meal and rest breaks or to pay meal and rest break premiums for
9 missed, interrupted, or late breaks, as required by California law. These claims are
10 subject to a three-year statute of limitations.

11 Plaintiff also seeks attorneys’ fees. In determining whether a complaint meets
12 the \$75,000 threshold for diversity removal, a court may consider the aggregate value
13 of claims for compensatory damages as well as attorneys’ fees throughout the entirety
14 of the litigation. *Cain v. Hartford Life & Acc. Ins. Co.*, 890 F. Supp. 2d 1246, 1250
15 (C.D. Cal. 2012) (“The Court can use its discretion to determine, within its own
16 experience, that an award of attorneys’ fees alone will satisfy the amount in
17 controversy requirement.”); *Galt G/S v. JSS Scandinavia*, 142 F. 3d 1150, 1156 (9th
18 Cir. 1998) (claims for statutory attorneys’ fees to be included in amount in
19 controversy, regardless of whether award is discretionary or mandatory); *Simmons v.*
20 *PCR Tech.*, 209 F. Supp. 2d 1029, 1034-1035 (N.D. Cal. 2002) (“Such fees
21 necessarily accrue until the action is resolved. Thus, the Ninth Circuit must have
22 anticipated that district courts would project fees beyond removal.”) (*citing Galt G/S*,
23 142 F.3d at 1155-56).

24 Attorneys’ fees awards in similar cases, alleging individual wage and hour
25 violations, frequently exceed \$75,000. *See, e.g., Barboza v. W. Coast Digital GSM,*
26 *Inc.*, No. B227692, 2011 Cal. App. Unpub. LEXIS 2187, at *19; 2011 WL 1051275,
27 at *6 (Cal. Ct. App. Mar. 24, 2011) (awarding \$79,528 in attorneys’ fees was
28 reasonable for counsel’s work on individual claims); *accord Lippold v. Godiva*

1 *Chocolatier, Inc.*, No. C10-00421, 2010 U.S. Dist. LEXIS 47144, at *10-11; 2010
2 WL 1526441, at *4 (N.D. Cal. Apr. 15, 2010) (concluding that defendant’s estimate
3 of attorneys’ fees in a wage and hour case in an amount exceeding \$75,000 was a
4 good faith estimate).

5 Publicly available pleadings demonstrate that Plaintiff’s counsel, Lawyers for
6 Justice, PC, frequently obtains attorneys’ fees based on an hourly rate of “at least
7 \$500” in wage and hour class and representative actions. Sutphen Decl. ¶ 6, Ex. 2
8 (Declaration of Edwin Aiwazian In Support of Plaintiff’s *Motion for Attorneys’ Fees,*
9 *Costs* filed in the *Feao v. UFP Riverside, LLC*, Case No. 2:17-cv-03080-PSG-JPR
10 (C.D. Cal. Sept. 20, 2019)) (listing at least ten cases in which Lawyers for Justice,
11 PC has been awarded fees based on an hourly rate between \$500 and \$800). Indeed,
12 as recently as November 21, 2018 Plaintiff’s counsel was awarded attorneys’ fees
13 based on an hourly rate of \$831.38. *See id.* Assuming Plaintiff’s counsel’s rate is
14 \$600/hour and he works only 90 hours on Plaintiff’s individual case, attorney’s fees
15 would total \$54,000.

16 Even assuming that only an individualized analysis should be considered for
17 purposes of determining whether the \$75,000 amount in controversy is satisfied,
18 Defendants still satisfy the requisite showing to justify removal of the action to
19 federal court. Plaintiff’s individual payroll data reflects that his average hourly rate
20 was approximately \$22.50 during his brief term of employment, October 24, 2019
21 until May 29, 2020. Knight Decl., at ¶ 15. Plaintiff worked approximately 31 work
22 weeks during this time and was paid weekly for each of those work weeks. *Id.*

23 Defendants do not concede that Plaintiff’s allegations have any merit. Based
24 on this information obtained from payroll records, however, calculations of the
25 amount in controversy brought by Plaintiff’s individual causes of action are as
26 follows:

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Plaintiff’s Claim for Failure to Provide Meal and Rest Breaks: \$6,975

Plaintiff alleges that “during the relevant time period” Defendants failed to provide meal and rest breaks to Plaintiff and other class members and did not pay premiums for late, missed, or interrupted breaks. Assuming Plaintiff missed five meal breaks and five rest breaks a week for his work weeks, his meal and rest break amount in controversy is approximately \$6,975 ($\22.50 average rate of pay x 5 violations per week x 31 total workweeks = $\$3,487.50$; $\$3,487.50 \times 2 = \$6,975$).

Plaintiff’s Claim for Unpaid Overtime: \$5,231.25

Plaintiff alleges that during the relevant time period Plaintiff and other class members were required to work more than eight hours in a day and/or forty hours in a week. Assuming five hours of unpaid overtime per week, the amount in controversy is approximately \$5,231.25 ($(\22.50 average rate of pay x 1.5) x 5 hour of OT per week x 31 total workweeks = $\$5,231.25$).

Plaintiff’s Claim for Untimely Payment of Final Wages: \$5,400

Plaintiff’s claim for the untimely payment of final wages puts approximately \$5,400.00 in controversy ($\$22.50$ average rate of pay x 8 hours a day x 30 days = $\$5,400$).

Plaintiff’s Claim for Failure to Maintain Accurate Records: \$3,050

Upon a review of the payroll data, Plaintiff worked approximately 31 pay periods. Thus, crediting \$50 and then \$100 for each subsequent pay period, capped at \$4,000, the amount in controversy as a result of this cause of action is \$3,050.

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Plaintiff’s Claim for Failure to Pay Minimum Wage: \$7,600

Plaintiff worked approximately 31 pay periods. Thus, crediting \$100 and then \$250 for each subsequent pay period, the amount in controversy as a result of this cause of action is \$7,600.

Plaintiff’s Claim Alleging Failure to Properly Itemized Employee Wage Statements: \$3,050

Plaintiff also seeks penalties under Labor Code section 226(e) for failure to provide accurate, itemized wage statements. Penalties for Section 226 violations run at \$100 per employee per pay period (after an initial \$50 per employee for the first pay period) (Lab. Code § 226(e)) and the statute of limitations is one year. Cal. Code Civ. Proc. § 340. Cintas provided wage statements to Plaintiff on a weekly basis, and Plaintiff worked 31 pay periods. Because Plaintiff indicates that he was never provided a compliant wage statement, his wage itemization claim would be for \$3,050 (\$50 + (30 pay periods x \$100)).

Plaintiff’s Claim for Unreimbursed Business Expenses (§§ 2800 and 2802): \$800

Plaintiff does not include any facts regarding what these business expenses might be or what the approximate amount totals. Assuming that Plaintiff claims \$100 per month of unreimbursed business expenses for the approximately 8 months that he worked, the amount in controversy as a result of this cause of action is \$800.

Attorneys’ Fees: \$54,000

Plaintiff’s counsel’s hourly rate from past wage and hour settlements that were approved ranges from \$500 to \$831.38. Assuming Plaintiff’s counsel’s rate is \$600/hour and he works only 90 hours on Plaintiff’s individual case, attorney’s fees total \$54,000.

1 **SUMMARY OF AMOUNT IN CONTROVERSY FOR DIVERSITY**
2 **REMOVAL**

\$6,975	Failure to Provide Meal and Rest Breaks
\$5,231.25	Unpaid Overtime
\$5,400	Untimely Payment of Final Wages
\$3,050	Failure to Maintain Accurate Records
\$7,600	Failure to Pay Minimum Wage
\$3,050	Failure to Itemize Wage Statements
\$800	Unreimbursed Business Expenses
\$32,106.25	SUBTOTAL
\$54,000	Attorneys' Fees
\$86,106.25	TOTAL

17 **IV. ALTERNATIVELY, THE COURT HAS ORIGINAL SUBJECT**
18 **MATTER JURISDICTION PURSUANT TO CAFA**

19 The Court has original jurisdiction over this action under CAFA, codified in
20 relevant part in 28 U.S.C. § 1332(d)(2), for the following reasons: (i) any member of
21 a class of plaintiffs is a citizen of a State different from any defendant, and (ii) the
22 amount in controversy exceeds \$5,000,000, exclusive of interest and costs. The
23 exceptions to jurisdiction under CAFA do not apply here, because the Defendants are
24 not a citizen of the State in which the action was originally filed (California), 28
25 U.S.C. § 1332(d)(4)(A)(i)(II)(cc), and because the number of members of all
26 proposed plaintiff classes in the aggregate is more than 100. 28 U.S.C.
27 § 1332(d)(5)(B).
28

1 **A. Diversity of Citizenship Exists**

2 The diversity of citizenship for removal under CAFA is proper when “any
3 member of a class of plaintiffs is a citizen of a State different from any defendant.”
4 28 U.S.C. § 1332(d)(2)(A). Thus, in order to satisfy CAFA’s diversity requirement,
5 the party seeking removal need only show that minimal diversity exists, that is, one
6 putative class member is a citizen of a different state than one defendant. *Id.*; *see*
7 *also United Steel v. Shell Oil Co.*, 602 F.3d 1087, 1090-1091 (9th Cir. 2010) (noting
8 that CAFA provides expanded original diversity jurisdiction for class actions meeting
9 the amount in controversy and minimal diversity and numerosity requirements
10 pursuant to 28 U.S.C. § 1332(d)(2)); *Bush v. Cheaptickets, Inc.*, 425 F.3d 683, 684
11 (9th Cir. 2005).

12 As discussed above, Defendants are not now, nor ever have been, a citizen
13 and/or resident of the state of California within the meaning of the Acts of Congress
14 relating to the removal of class actions. 28 U.S.C. § 1332(c)(1); *Hertz*, 559 U.S. at 97.

15 As also discussed above, Plaintiff is a citizen of California. Minimal diversity
16 only requires that “a member of a class of plaintiffs is a citizen of a State different
17 from any defendant.” 28 U.S.C. § 1332(d)(2)(A). The vast majority of current and
18 former non-exempt employees in Cintas’ California locations have last known
19 addresses located within the State of California. Justin Knight Decl. at ¶ 9. Since
20 Plaintiff has pled the class to include “All current and former hourly-paid or non-
21 exempt employees who worked for any of the Defendants within the State of
22 California at any time during the period from four years preceding the filing of this
23 Complaint to final judgment and who reside in California,” minimal diversity exists.
24 Sutphen Decl., Ex. 1 at ¶ 16.

25 Accordingly, based on the Complaint, at least one member of the putative class
26 is a citizen of a different state than Defendants and the minimal diversity requirement
27 is satisfied. 28 U.S.C. § 1332(d)(2)(A).

28

1 **B. The Size of the Proposed Class Exceeds One Hundred (100)**
 2 **Members and Neither the State, Its Officers Nor Governmental**
 3 **Agencies Are Primary Defendants**

4 According to the Complaint, the proposed class includes “All current and
 5 former hourly-paid or non-exempt employees who worked for any of the Defendants
 6 within the State of California at any time during the period from four years preceding
 7 the filing of this Complaint to final judgment and who reside in California.” Sutphen
 8 Decl., Ex.1 ¶16. There were approximately 2,299 non-exempt full-time employees
 9 employed by Cintas in various California locations as-of September 14, 2020.
 10 Knight Decl., at ¶ 10. A number of positions were eliminated in April, May, June,
 11 and July 2020 due to COVID-19. Knight Decl., at ¶ 10. The September 14, 2020
 12 number or 2,299 is lower than the number of employees employed prior to April 2020
 13 and representative of those employed after pandemic-response measures. Knight
 14 Decl., at ¶ 10. Therefore, the putative class is well in excess of one hundred (100) in
 15 the aggregate as required under the CAFA. 28 U.S.C. § 1332(d)(5)(B).

16 **C. Defendants Are Not Required to Establish Any Exceptions to CAFA**
 17 **Removal; Nevertheless, No CAFA Exceptions Apply**

18 28 U.S.C. § 1332(d)(3) and (4) recognize circumstances where the court may
 19 or must decline jurisdiction. *See* 28 U.S.C. § 1332(d)(3); 28 U.S.C. § 1332(d)(4).
 20 Proof of these exceptions and provisions in §§ 1332(d)(3) and (4) are not required as
 21 part of the defendants’ *prima facie* showing to establish minimal diversity under
 22 CAFA. *Serrano v. 180 Connect, Inc.*, 478 F.3d 1018, 1023 (9th Cir. 2007) (“The
 23 structure of the statute and the long-standing rule on proof of exceptions to removal
 24 dictate that the party seeking remand bears the burden of proof as to any exception
 25 under CAFA.”); *see also Hart v. FedEx Ground Package System Inc.*, 457 F.3d 675
 26 (7th Cir. 2006); *Frazier v. Pioneer Americas LLC*, 455 F.3d 542 (5th Cir. 2006);
 27 *Evans v. Walter Indus., Inc.*, 449 F.3d 1159 (11th Cir. 2006). It is plaintiff’s burden,
 28 upon a request for remand, to shoulder the burden to establish that any exception
 applies. *Id.* Accordingly, because Defendants have adequately presented the

1 existence of minimal diversity and case-in-controversy requirements, jurisdiction
 2 exists pursuant to CAFA and removal is appropriate. Nevertheless, Plaintiff cannot
 3 establish the application of any exceptions.

4 **D. The Amount-In-Controversy Requirements Is Satisfied**

5 While the Complaint seeks damages for numerous purported violations of the
 6 California Labor Code, an evaluation of Plaintiff's meal and rest break claims alone
 7 establishes that the CAFA minimum amount in controversy is met.

8 Plaintiff's Complaint alleges that Defendants failed to provide Plaintiff and
 9 other class members meal and rest breaks or to pay meal and rest break premiums for
 10 missed, interrupted, or late breaks, as required by California law. These claims are
 11 subject to a three-year statute of limitations. Even if damages are only calculated for
 12 non-exempt California employees who were employed by Defendants as-of
 13 September 14, 2020, potential damages are well in excess of the CAFA minimum
 14 amount in controversy of \$5,000,000. Cintas non-exempt full-time California
 15 employees are paid through a variety of pay-plans which include any combination of
 16 a base rate, commissions, and incentive pay, but regardless of the pay-plan, all of
 17 these employees are paid in excess of applicable California and municipal minimum
 18 wages. Knight Decl. ¶11. Assuming that each of the 2,299 employees only earned
 19 \$12.00 per hour (California's minimum wage), and assuming that each employee
 20 only experienced 5 meal and 5 rest break violations per week for 52 workweeks
 21 (approximately one year), the total amount of damages is \$14,345,760 (\$12.00
 22 average rate of pay x 5 violations per week x (2,299 employees x 52 weeks) =
 23 \$7,172,880 x 2 = \$14,345,760). Knight Decl. ¶13.

24 This analysis assumes that all non-exempt Cintas employees in this period also
 25 participated in the *Williams/Paramo* settlement that received final approval from the
 26 San Bernardino Superior Court on December 27, 2019. This settlement was entered
 27 into between plaintiffs Lisa Paramo and Ato Williams, on behalf of themselves and
 28 a putative class of approximately 4,676 individuals, and defendants Cintas Corporate

1 Services, Inc. Cintas Corporation No. 2 and Cintas Corporation No. 3. The
 2 settlement class was comprised of all person who were employed, whether currently
 3 employed or formerly employed, by Cintas as an hourly, non-exempt employee at
 4 any time during the time period of January 25, 2013 to August 7, 2019. In exchange
 5 for a non-revisionary \$4,850,000 Gross Settlement Amount, the parties settled the
 6 following underlying claims: (1) failure to pay all straight time wages; (2) failure to
 7 pay all overtime wages; (3) failure to provide meal periods; (4) failure to authorize
 8 and permit rest periods; (5) knowing and intentional failure to comply with itemized
 9 wage statement provisions; (6) failure to pay all wages due at the time of termination
 10 of employment; (7) failure to reimburse illegal deductions; (8) violation of unfair
 11 competition law and (9) civil penalties pursuant to California's Private Attorney
 12 General's Act of 2004 for alleged violations of the foregoing.

13 Defendants do not concede that Plaintiff's allegations have any merit, but for
 14 purposes of removal and only analyzing Plaintiff's alleged claims for meal and rest
 15 break violations, the potential damages amount is well in excess of \$5,000,000.

16 **E. Additional Calculations Regarding Other Causes of Action Are**
 17 **Unnecessary**

18 As noted above, for CAFA purposes, Defendants only needs to show that the
 19 aggregate amount in controversy exceeds \$5,000,000. Even if the Court discounted
 20 the number of alleged missed meals and breaks to only one per week, the resulting
 21 damages would be approximately \$7,172,880. Thus, this alternative calculation only
 22 looking at *one* of Plaintiff's myriad alleged Labor Code violations still exceeds the
 23 \$5,000,000 amount in controversy requirement. It goes without saying, the other
 24 causes of action, as well as the inclusion of an approximately amount of attorney's
 25 fees¹ would only inflate the amount in controversy even more, but there is no need

26 _____
 27 ¹ A 25% attorney's fee award is commonly included in the minimum amount-in-
 28 controversy calculation in wage and hour class actions, and the underlying statutes
 authorize this calculation. *Blevins v. Republic Refrigeration, Inc.*, 2015 U.S. Dist.
 LEXIS 130521, *39 (C.D. Cal., Sept. 28, 2015); citing *Yocupicio v. PAE Group*,

1 for Defendants to ask this Court to labor through further calculation when just a few
2 suffice for CAFA removal purposes.

3 To the extent any question arises as to the propriety of the removal of this
4 action, Defendants request the opportunity to present a brief or supplemental
5 evidence in support of its position that this case is subject to removal.

6 As discussed herein, assuming the truth of the allegations asserted in the
7 Complaint, Defendants have overwhelmingly demonstrated the existence of an
8 amount in controversy in excess of \$5,000,000 with only assumptions of a single
9 alleged meal and rest break violation per work week, a low average hourly rate for
10 employees, a low number of total employees, and the exclusion of attorney’s fees.

11 **V. VENUE IS PROPER**

12 This action was originally filed in the Superior Court for the County of Los
13 Angeles. Accordingly, venue is proper in this district, the Western District of
14 California, because it embraces the place in which this action has been pending. 28
15 U.S.C. § 1441(a).

16 **VI. ALL NOTICE AND PROCEDURAL REQUIREMENTS HAVE BEEN**
17 **MET**

18 Defendant will promptly serve copies of this Notice of Removal upon all
19 parties and will promptly serve and file a copy with the Superior Court of the State
20 of California, County of Los Angeles, pursuant to 28 U.S.C. § 1446(d).

21 If any question arises as to the propriety of the removal of this action,
22 Defendants requests the opportunity to present a brief or supplemental evidence in
23 support of its position that this case is subject to removal.

24 Nothing in this Notice of Removal is intended or should be construed as any
25 type of express or implied admission by Defendants of any fact or the validity or
26 merits of Plaintiff’s claims, causes of action, allegations (individual and as pertaining

27 _____
28 *LLC*, No. 14-8958-GW, 2014 U.S. Dist. LEXIS 178723, *6 (C.D. Cal. Dec. 29,
2014); *Galt v. Scandinavia*, 142 F.3d 1150, 1156 (9th Cir. 1998).

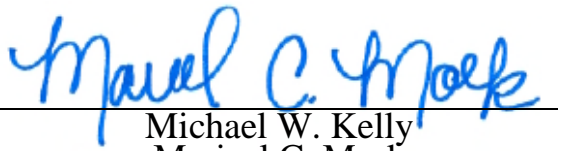
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275 Battery Street, Suite 2000
San Francisco, California 94111

1 to a class). Defendant expressly reserves all rights, remedies and defenses in
2 connection with this action.

3 WHEREFORE, Defendants respectfully request that the Court assume full
4 jurisdiction over this action as if plaintiff had originally filed his claims in this Court
5 and that the above-captioned action be removed to the United States District Court.
6

7 Dated: October 28, 2020

Respectfully submitted,
Squire Patton Boggs (US) LLP

9
10 By: 
11 Michael W. Kelly
12 Marisol C. Mork
13 Lilah J. Sutphen

14 Attorneys for Defendants
15 CINTAS CORPORATION NO. 3;
16 CINTAS CORPORATION NO. 2;
17 CINTAS CORPORATE SERVICES,
18 INC.; and CINTAS CORPORATION
19
20
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010-9128-1762/2/AMERICAS

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EXHIBIT 1

COPY

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2 **LAWYERS for JUSTICE, PC**
3 410 West Arden Avenue, Suite 203
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Superior Court of California
County of Los Angeles

SEP 17 2020

Sharri R. Carter, Executive Assistant, Clerk of Court
By Steven Drew, Deputy

Attorneys for Plaintiff

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**

10 PORFIRIO LANDEROS, individually, and
11 on behalf of other members of the general
12 public similarly situated;

Plaintiff,

13 vs.

14 CINTAS CORPORATION NO.3, an
15 unknown business entity, CINTAS
16 CORPORATION NO.2, an unknown
17 business entity, CINTAS CORPORATE
18 SERVICES, INC., an unknown business
19 entity, CINTAS CORPORATION, an
20 unknown business entity; and DOES 1
21 through 100, inclusive,

Defendants.

Case No.: **20STCV35571**
**CLASS ACTION COMPLAINT FOR
DAMAGES**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment);
- (7) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
- (8) Violation of California Labor Code § 1174(d) (Failure To Keep Requisite Payroll Records);
- (9) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses);
- (10) Violation of California Business & Professions Code §§ 17200, et seq.

DEMAND FOR JURY TRIAL

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1 COMES NOW, Plaintiff PORFIRIO LANDEROS (“Plaintiff”), individually, and on
2 behalf of other members of the general public similarly situated, and alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. This class action is brought pursuant to the California Code of Civil Procedure
5 section 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal
6 jurisdiction limits of the Superior Court and will be established according to proof at trial. The
7 “amount in controversy” for the named Plaintiff, including but not limited to claims for
8 compensatory damages, restitution, penalties, wages, premium pay, and pro rata share of
9 attorneys’ fees, is less than seventy-five thousand dollars (\$75,000).

10 2. This Court has jurisdiction over this action pursuant to the California
11 Constitution, Article VI, Section 10, which grants the superior court “original jurisdiction in all
12 other causes” except those given by statute to other courts. The statutes under which this
13 action is brought do not specify any other basis for jurisdiction.

14 3. This Court has jurisdiction over Defendant because, upon information and
15 belief, Defendant is a citizen of California, has sufficient minimum contacts in California, or
16 otherwise intentionally avails itself of the California market so as to render the exercise of
17 jurisdiction over it by California courts consistent with traditional notions of fair play and
18 substantial justice.

19 4. Venue is proper in this Court because, upon information and belief, Defendant
20 maintains offices, has agents, employs individuals, and/or transacts business in the State of
21 California, County of Los Angeles. The majority of acts and omissions alleged herein relating to
22 Plaintiff and the other class members took place in the State of California, including the County
23 of Los Angeles. At all relevant times, Defendant maintained its headquarters/“nerve center”
24 within the State of California, County of Los Angeles.

25 **PARTIES**

26 5. Plaintiff PORFIRIO LANDEROS, is an individual residing in the State of
27 California, County of Los Angeles.

28 6. Defendant CINTAS CORPORATION NO.3, at all times herein mentioned, was

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1 and is, an employer whose employees are engaged throughout the State of California,
2 including the County of Los Angeles.

3 7. Defendant CINTAS CORPORATION NO.2, at all times herein mentioned, was
4 and is, an employer whose employees are engaged throughout the State of California,
5 including the County of Los Angeles.

6 8. Defendant CINTAS CORPORATE SERVICES, INC., at all times herein
7 mentioned, was and is, an employer whose employees are engaged throughout the State of
8 California, including the County of Los Angeles.

9 9. Defendant CINTAS CORPORATION, at all times herein mentioned, was and is,
10 an employer whose employees are engaged throughout the State of California, including the
11 County of Los Angeles.

12 10. At all relevant times, Defendants CINTAS CORPORATION NO.3, CINTAS
13 CORPORATION NO.2, CINTAS CORPORATE SERVICES, INC., CINTAS CORPORATION
14 were the "employers" of Plaintiff within the meaning of all applicable California laws and
15 statutes.

16 11. At all times herein relevant, Defendants CINTAS CORPORATION NO.3,
17 CINTAS CORPORATION NO.2, CINTAS CORPORATE SERVICES, INC., CINTAS
18 CORPORATION, and DOES 1 through 100, and each of them, were the agents, partners, joint
19 venturers, joint employers, representatives, servants, employees, successors-in-interest, co-
20 conspirators and/or assigns, each of the other, and at all times relevant hereto were acting
21 within the course and scope of their authority as such agents, partners, joint venturers, joint
22 employers, representatives, servants, employees, successors, co-conspirators and/or assigns,
23 and all acts or omissions alleged herein were duly committed with the ratification, knowledge,
24 permission, encouragement, authorization and/or consent of each defendant designated as a
25 DOE herein.

26 12. The true names and capacities, whether corporate, associate, individual or
27 otherwise, of defendants DOES 1 through 100, inclusive, are unknown to Plaintiff who sue
28 said defendants by such fictitious names. Plaintiff is informed and believes, and based on that

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1 information and belief alleges, that each of the defendants designated as a DOE is legally
2 responsible for the events and happenings referred to in this Complaint, and unlawfully caused
3 the injuries and damages to Plaintiff and the other class members as alleged in this Complaint.
4 Plaintiff will seek leave of court to amend this Complaint to show the true names and
5 capacities when the same have been ascertained.

6 13. Defendant CINTAS CORPORATION NO.3, CINTAS CORPORATION NO.2,
7 CINTAS CORPORATE SERVICES, INC., CINTAS CORPORATION and DOES 1 through
8 100 will hereinafter collectively be referred to as "Defendants."

9 14. Plaintiff further alleges that Defendants directly or indirectly controlled or
10 affected the working conditions, wages, working hours, and conditions of employment of
11 Plaintiff and the other class members so as to make each of said Defendants employers liable
12 under the statutory provisions set forth herein.

13 **CLASS ACTION ALLEGATIONS**

14 15. Plaintiff bring this action on his own behalf and on behalf of all other members
15 of the general public similarly situated, and, thus, seeks class certification under California
16 Code of Civil Procedure section 382.

17 16. The proposed class is defined as follows:

18 All current and former hourly-paid or non-exempt employees who worked for
19 any of the Defendants within the State of California at any time during the
20 period from four years preceding the filing of this Complaint to final judgment
21 and who reside in California.

22 17. Plaintiff reserves the right to establish subclasses as appropriate.

23 18. The class is ascertainable and there is a well-defined community of interest in
24 the litigation:

25 a. Numerosity: The class members are so numerous that joinder of all class
26 members is impracticable. The membership of the entire class is
27 unknown to Plaintiff at this time; however, the class is estimated to be
28 greater than fifty (50) individuals and the identity of such membership is

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readily ascertainable by inspection of Defendants' employment records.

- b. Typicality: Plaintiff's claims are typical of all other class members' as demonstrated herein. Plaintiff will fairly and adequately protect the interests of the other class members with whom he has a well-defined community of interest.
- c. Adequacy: Plaintiff will fairly and adequately protect the interests of each class member, with whom he has a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff has no interest that is antagonistic to the other class members. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and during the pendency of this action will continue to incur, costs and attorneys' fees, that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.
- d. Superiority: A class action is superior to other available methods for the fair and efficient adjudication of this litigation because individual joinder of all class members is impractical.
- e. Public Policy Considerations: Certification of this lawsuit as a class action will advance public policy objectives. Employers of this great state violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. However, class actions provide the class members who are not named in the complaint anonymity that allows for the vindication of their rights.

19. There are common questions of law and fact as to the class members that predominate over questions affecting only individual members. The following common questions of law or fact, among others, exist as to the members of the class:

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- 1 a. Whether Defendants' failure to pay wages, without abatement or
- 2 reduction, in accordance with the California Labor Code, was willful;
- 3 b. Whether Defendants' had a corporate policy and practice of failing to
- 4 pay their hourly-paid or non-exempt employees within the State of
- 5 California for all hours worked and missed (short, late, interrupted,
- 6 and/or missed altogether) meal periods and rest breaks in violation of
- 7 California law;
- 8 c. Whether Defendants required Plaintiff and the other class members to
- 9 work over eight (8) hours per day and/or over forty (40) hours per week
- 10 and failed to pay the legally required overtime compensation to Plaintiff
- 11 and the other class members;
- 12 d. Whether Defendants deprived Plaintiff and the other class members of
- 13 meal and/or rest periods or required Plaintiff and the other class
- 14 members to work during meal and/or rest periods without compensation;
- 15 e. Whether Defendants failed to pay minimum wages to Plaintiff and the
- 16 other class members for all hours worked;
- 17 f. Whether Defendants failed to pay all wages due to Plaintiff and the other
- 18 class members within the required time upon their discharge or
- 19 resignation;
- 20 g. Whether Defendants failed to timely pay all wages due to Plaintiff and
- 21 the other class members during their employment;
- 22 h. Whether Defendants complied with wage reporting as required by the
- 23 California Labor Code; including, *inter alia*, section 226;
- 24 i. Whether Defendants kept complete and accurate payroll records as
- 25 required by the California Labor Code, including, *inter alia*, section
- 26 1174(d);
- 27 j. Whether Defendants failed to reimburse Plaintiff and the other class
- 28 members for necessary business-related expenses and costs;

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- 1 k. Whether Defendants' conduct was willful or reckless;
- 2 l. Whether Defendants engaged in unfair business practices in violation of
- 3 California Business & Professions Code section 17200, et seq.;
- 4 m. The appropriate amount of damages, restitution, and/or monetary
- 5 penalties resulting from Defendants' violation of California law; and
- 6 n. Whether Plaintiff and the other class members are entitled to
- 7 compensatory damages pursuant to the California Labor Code.

GENERAL ALLEGATIONS

9 20. At all relevant times set forth herein, Defendants employed Plaintiff and other
10 persons as hourly-paid or non-exempt employees within the State of California, including the
11 County of Los Angeles.

12 21. Defendants, jointly and severally, employed Plaintiff as an hourly-paid, non-
13 exempt employee, from approximately October 2019 to approximately May 2020, in the State
14 of California, County of Los Angeles.

15 22. Defendants hired Plaintiff and the other class members, classified them as
16 hourly-paid or non-exempt employees, and failed to compensate them for all hours worked and
17 missed meal periods and/or rest breaks.

18 23. Defendants had the authority to hire and terminate Plaintiff and the other class
19 members, to set work rules and conditions governing Plaintiff's and the other class members'
20 employment, and to supervise their daily employment activities.

21 24. Defendants exercised sufficient authority over the terms and conditions of
22 Plaintiff's and the other class members' employment for them to be joint employers of Plaintiff
23 and the other class members.

24 25. Defendants directly hired and paid wages and benefits to Plaintiff and the other
25 class members.

26 26. Defendants continue to employ hourly-paid or non-exempt employees within the
27 State of California.

28 27. Plaintiff and the other class members worked over eight (8) hours in a day,

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1 and/or forty (40) hours in a week during their employment with Defendants.

2 28. Plaintiff is informed and believes, and based thereon alleges, that Defendants
3 engaged in a pattern and practice of wage abuse against their hourly-paid or non-exempt
4 employees within the State of California. This pattern and practice involved, *inter alia*, failing
5 to pay them for all regular and/or overtime wages earned and for missed meal periods and rest
6 breaks in violation of California law.

7 29. Plaintiff is informed and believes, and based thereon alleges, that Defendants
8 knew or should have known that Plaintiff and the other class members were entitled to receive
9 certain wages for overtime compensation and that they were not receiving accurate overtime
10 compensation for all overtime hours worked.

11 30. Plaintiff is informed and believes, and based thereon alleges, that Defendants
12 failed to provide Plaintiff and the other class members all required rest and meal periods during
13 the relevant time period as required under the Industrial Welfare Commission Wage Orders
14 and thus they are entitled to any and all applicable penalties.

15 31. Plaintiff is informed and believes, and based thereon alleges, that Defendants
16 knew or should have known that Plaintiff and the other class members were entitled to receive
17 all meal periods or payment of one additional hour of pay at Plaintiff's and the other class
18 member's regular rate of pay when a meal period was missed, and they did not receive all meal
19 periods or payment of one additional hour of pay at Plaintiff's and the other class member's
20 regular rate of pay when a meal period was missed.

21 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants
22 knew or should have known that Plaintiff and the other class members were entitled to receive
23 all rest periods or payment of one additional hour of pay at Plaintiff's and the other class
24 member's regular rate of pay when a rest period was missed, and they did not receive all rest
25 periods or payment of one additional hour of pay at Plaintiff's and the other class members'
26 regular rate of pay when a rest period was missed.

27 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants
28 knew or should have known that Plaintiff and the other class members were entitled to receive

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1 at least minimum wages for compensation and that they were not receiving at least minimum
2 wages for all hours worked.

3 34. Plaintiff is informed and believes, and based thereon alleges, that Defendants
4 knew or should have known that Plaintiff and the other class members were entitled to receive
5 all wages owed to them upon discharge or resignation, including overtime and minimum wages
6 and meal and rest period premiums, and they did not, in fact, receive all such wages owed to
7 them at the time of their discharge or resignation.

8 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants
9 knew or should have known that Plaintiff and the other class members were entitled to receive
10 all wages owed to them during their employment. Plaintiff and the other class members did
11 not receive payment of all wages, including overtime and minimum wages and meal and rest
12 period premiums, within any time permissible under California Labor Code section 204.

13 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants
14 knew or should have known that Plaintiff and the other class members were entitled to receive
15 complete and accurate wage statements in accordance with California law, but, in fact, they did
16 not receive complete and accurate wage statements from Defendants. The deficiencies
17 included, *inter alia*, the failure to include the total number of hours worked by Plaintiff and the
18 other class members.

19 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants
20 knew or should have known that Defendants had to keep complete and accurate payroll records
21 for Plaintiff and the other class members in accordance with California law, but, in fact, did
22 not keep complete and accurate payroll records.

23 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants
24 knew or should have known that Plaintiff and the other class members were entitled to
25 reimbursement for necessary business-related expenses.

26 39. Plaintiff is informed and believes, and based thereon alleges, that Defendants
27 knew or should have known that they had a duty to compensate Plaintiff and the other class
28 members pursuant to California law, and that Defendants had the financial ability to pay such

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1 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
2 represented to Plaintiff and the other class members that they were properly denied wages, all
3 in order to increase Defendants' profits.

4 40. During the relevant time period, Defendants failed to pay overtime wages to
5 Plaintiff and the other class members for all overtime hours worked. Plaintiff and the other
6 class members were required to work more than eight (8) hours per day and/or forty (40) hours
7 per week without overtime compensation for all overtime hours worked.

8 41. During the relevant time period, Defendants failed to provide all requisite
9 uninterrupted meal and rest periods to Plaintiff and the other class members.

10 42. During the relevant time period, Defendants failed to pay Plaintiff and the other
11 class members at least minimum wages for all hours worked.

12 43. During the relevant time period, Defendants failed to pay Plaintiff and the other
13 class members all wages owed to them upon discharge or resignation.

14 44. During the relevant time period, Defendants failed to pay Plaintiff and the other
15 class members all wages within any time permissible under California law, including, *inter*
16 *alia*, California Labor Code section 204.

17 45. During the relevant time period, Defendants failed to provide complete or
18 accurate wage statements to Plaintiff and the other class members.

19 46. During the relevant time period, Defendants failed to keep complete or accurate
20 payroll records for Plaintiff and the other class members.

21 47. During the relevant time period, Defendants failed to reimburse Plaintiff and the
22 other class members for all necessary business-related expenses and costs.

23 48. During the relevant time period, Defendants failed to properly compensate
24 Plaintiff and the other class members pursuant to California law in order to increase
25 Defendants' profits.

26 49. California Labor Code section 218 states that nothing in Article 1 of the Labor
27 Code shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty
28 due to him [or her] under this article."

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FIRST CAUSE OF ACTION

(Violation of California Labor Code §§ 510 and 1198)

(Against CINTAS CORPORATION NO.3, CINTAS CORPORATION NO.2, CINTAS CORPORATE SERVICES, INC., CINTAS CORPORATION and DOES 1 through 100)

50. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 49, and each and every part thereof with the same force and effect as though fully set forth herein.

51. California Labor Code section 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person’s regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

52. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiff and the other class members employed by Defendants, and working more than eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

53. The applicable IWC Wage Order further provides that Defendants are and were required to pay Plaintiff and the other class members overtime compensation at a rate of two times their regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

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

55. During the relevant time period, Plaintiff and the other class members worked in excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a week.

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1 63. At all relevant times, the applicable IWC Wage Order and California Labor
2 Code section 512(a) further provide that an employer may not require, cause or permit an
3 employee to work for a work period of more than ten (10) hours per day without providing the
4 employee with a second uninterrupted meal period of not less than thirty (30) minutes, except
5 that if the total hours worked is no more than twelve (12) hours, the second meal period may
6 be waived by mutual consent of the employer and the employee only if the first meal period
7 was not waived.

8 64. During the relevant time period, Plaintiff and the other class members who were
9 scheduled to work for a period of time no longer than six (6) hours, and who did not waive
10 their legally-mandated meal periods by mutual consent, were required to work for periods
11 longer than five (5) hours without an uninterrupted meal period of not less than thirty (30)
12 minutes and/or rest period.

13 65. During the relevant time period, Plaintiff and the other class members who were
14 scheduled to work for a period of time in excess of six (6) hours were required to work for
15 periods longer than five (5) hours without an uninterrupted meal period of not less than thirty
16 (30) minutes and/or rest period.

17 66. During the relevant time period, Defendants intentionally and willfully required
18 Plaintiff and the other class members to work during meal periods and failed to compensate
19 Plaintiff and the other class members the full meal period premium for work performed during
20 meal periods.

21 67. During the relevant time period, Defendants failed to pay Plaintiff and the other
22 class members the full meal period premium due pursuant to California Labor Code section
23 226.7.

24 68. Defendants' conduct violates applicable IWC Wage Order and California Labor
25 Code sections 226.7 and 512(a).

26 69. Pursuant to applicable IWC Wage Order and California Labor Code section
27 226.7(b), Plaintiff and the other class members are entitled to recover from Defendants one
28 additional hour of pay at the employee's regular rate of compensation for each work day that

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1 the meal or rest period is not provided.

2 **THIRD CAUSE OF ACTION**

3 (Violation of California Labor Code § 226.7)

4 (Against CINTAS CORPORATION NO.3, CINTAS CORPORATION NO.2, CINTAS
5 CORPORATE SERVICES, INC., CINTAS CORPORATION and DOES 1 through 100)

6 70. Plaintiff incorporates by reference the allegations contained in paragraphs 1
7 through 69, and each and every part thereof with the same force and effect as though fully set
8 forth herein.

9 71. At all times herein set forth, the applicable IWC Wage Order and California
10 Labor Code section 226.7 were applicable to Plaintiff's and the other class members'
11 employment by Defendants.

12 72. At all relevant times, California Labor Code section 226.7 provides that no
13 employer shall require an employee to work during any rest period mandated by an applicable
14 order of the California IWC.

15 73. At all relevant times, the applicable IWC Wage Order provides that "[e]very
16 employer shall authorize and permit all employees to take rest periods, which insofar as
17 practicable shall be in the middle of each work period" and that the "rest period time shall be
18 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
19 hours or major fraction thereof" unless the total daily work time is less than three and one-half
20 (3 ½) hours.

21 74. During the relevant time period, Defendants required Plaintiff and other class
22 members to work four (4) or more hours without authorizing or permitting a ten (10) minute
23 rest period per each four (4) hour period worked.

24 75. During the relevant time period, Defendants willfully required Plaintiff and the
25 other class members to work during rest periods and failed to pay Plaintiff and the other class
26 members the full rest period premium for work performed during rest periods.

27 76. During the relevant time period, Defendants failed to pay Plaintiff and the other
28 class members the full rest period premium due pursuant to California Labor Code section

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1 226.7

2 77. Defendants' conduct violates applicable IWC Wage Orders and California
3 Labor Code section 226.7.

4 78. Pursuant to the applicable IWC Wage Orders and California Labor Code section
5 226.7(c), Plaintiff and the other class members are entitled to recover from Defendants one
6 additional hour of pay at the employees' regular hourly rate of compensation for each work
7 day that the rest period was not provided.

8 **FOURTH CAUSE OF ACTION**

9 **(Violation of California Labor Code §§ 1194, 1197, and 1197.1)**

10 **(Against CINTAS CORPORATION NO.3, CINTAS CORPORATION NO.2, CINTAS**
11 **CORPORATE SERVICES, INC., CINTAS CORPORATION and DOES 1 through 100)**

12 79. Plaintiff incorporates by reference the allegations contained in paragraphs 1
13 through 78, and each and every part thereof with the same force and effect as though fully set
14 forth herein.

15 80. At all relevant times, California Labor Code sections 1194, 1197, and 1197.1
16 provide that the minimum wage to be paid to employees, and the payment of a lesser wage
17 than the minimum so fixed is unlawful.

18 81. During the relevant time period, Defendants failed to pay minimum wage to
19 Plaintiff and the other class members as required, pursuant to California Labor Code sections
20 1194, 1197, and 1197.1.

21 82. Defendants' failure to pay Plaintiff and the other class members the minimum
22 wage as required violates California Labor Code sections 1194, 1197, and 1197.1. Pursuant to
23 those sections Plaintiff and the other class members are entitled to recover the unpaid balance
24 of their minimum wage compensation as well as interest, costs, and attorney's fees, and
25 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

26 83. Pursuant to California Labor Code section 1197.1, Plaintiff and the other class
27 members are entitled to recover a penalty of \$100.00 for the initial failure to timely pay each
28 employee minimum wages, and \$250.00 for each subsequent failure to pay each employee

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1 minimum wages.

2 84. Pursuant to California Labor Code section 1194.2, Plaintiff and the other class
3 members are entitled to recover liquidated damages in an amount equal to the wages
4 unlawfully unpaid and interest thereon.

5 **FIFTH CAUSE OF ACTION**

6 (Violation of California Labor Code §§ 201 and 202)

7 (Against CINTAS CORPORATION NO.3, CINTAS CORPORATION NO.2, CINTAS
8 CORPORATE SERVICES, INC., CINTAS CORPORATION and DOES 1 through 100)

9 85. Plaintiff incorporates by reference the allegations contained in paragraphs 1
10 through 84, and each and every part thereof with the same force and effect as though fully set
11 forth herein.

12 86. At all relevant times herein set forth, California Labor Code sections 201 and
13 202 provide that if an employer discharges an employee, the wages earned and unpaid at the
14 time of discharge are due and payable immediately, and if an employee quits his or her
15 employment, his or her wages shall become due and payable not later than seventy-two (72)
16 hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her
17 intention to quit, in which case the employee is entitled to his or her wages at the time of
18 quitting.

19 87. During the relevant time period, Defendants intentionally and willfully failed to
20 pay Plaintiff and the other class members who are no longer employed by Defendants their
21 wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ.

22 88. Defendants' failure to pay Plaintiff and the other class members who are no
23 longer employed by Defendants' their wages, earned and unpaid, within seventy-two (72)
24 hours of their leaving Defendants' employ, is in violation of California Labor Code sections
25 201 and 202.

26 89. California Labor Code section 203 provides that if an employer willfully fails to
27 pay wages owed, in accordance with sections 201 and 202, then the wages of the employee
28 shall continue as a penalty from the due date thereof at the same rate until paid or until an

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1 action is commenced; but the wages shall not continue for more than thirty (30) days.

2 90. Plaintiff and the other class members are entitled to recover from Defendants the
3 statutory penalty wages for each day they were not paid, up to a thirty (30) day maximum
4 pursuant to California Labor Code section 203.

5 **SIXTH CAUSE OF ACTION**

6 (Violation of California Labor Code § 204)

7 (Against CINTAS CORPORATION NO.3, CINTAS CORPORATION NO.2, CINTAS
8 CORPORATE SERVICES, INC., CINTAS CORPORATION and DOES 1 through 100)

9 91. Plaintiff incorporates by reference the allegations contained in paragraphs 1
10 through 90, and each and every part thereof with the same force and effect as though fully set
11 forth herein.

12 92. At all times herein set forth, California Labor Code section 204 provides that all
13 wages earned by any person in any employment between the 1st and 15th days, inclusive, of
14 any calendar month, other than those wages due upon termination of an employee, are due and
15 payable between the 16th and the 26th day of the month during which the labor was
16 performed.

17 93. At all times herein set forth, California Labor Code section 204 provides that all
18 wages earned by any person in any employment between the 16th and the last day, inclusive,
19 of any calendar month, other than those wages due upon termination of an employee, are due
20 and payable between the 1st and the 10th day of the following month.

21 94. At all times herein set forth, California Labor Code section 204 provides that all
22 wages earned for labor in excess of the normal work period shall be paid no later than the
23 payday for the next regular payroll period.

24 95. During the relevant time period, Defendants intentionally and willfully failed to
25 pay Plaintiff and the other class members all wages due to them, within any time period
26 permissible under California Labor Code section 204.

27 96. Plaintiff and the other class members are entitled to recover all remedies
28 available for violations of California Labor Code section 204.

SEVENTH CAUSE OF ACTION

(Violation of California Labor Code § 226(a))

(Against CINTAS CORPORATION NO.3, CINTAS CORPORATION NO.2, CINTAS CORPORATE SERVICES, INC., CINTAS CORPORATION 3 and DOES 1 through 100)

97. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 96, and each and every part thereof with the same force and effect as though fully set forth herein.

98. At all material times set forth herein, California Labor Code section 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

99. Defendants have intentionally and willfully failed to provide Plaintiff and the other class members with complete and accurate wage statements. The deficiencies include, but are not limited to: the failure to include the total number of hours worked by Plaintiff and the other class members.

100. As a result of Defendants' violation of California Labor Code section 226(a), Plaintiff and the other class members have suffered injury and damage to their statutorily-

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1 protected rights.

2 101. More specifically, Plaintiff and the other class members have been injured by
3 Defendants' intentional and willful violation of California Labor Code section 226(a) because
4 they were denied both their legal right to receive, and their protected interest in receiving,
5 accurate and itemized wage statements pursuant to California Labor Code section 226(a).

6 102. Plaintiff and the other class members are entitled to recover from Defendants the
7 greater of their actual damages caused by Defendants' failure to comply with California Labor
8 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per
9 employee.

10 103. Plaintiff and the other class members are also entitled to injunctive relief to
11 ensure compliance with this section, pursuant to California Labor Code section 226(h).

12 **EIGHTH CAUSE OF ACTION**

13 (Violation of California Labor Code § 1174(d))

14 (Against CINTAS CORPORATION NO.3, CINTAS CORPORATION NO.2, CINTAS
15 CORPORATE SERVICES, INC., CINTAS CORPORATION and DOES 1 through 100)

16 104. Plaintiff incorporates by reference the allegations contained in paragraphs 1
17 through 103, and each and every part thereof with the same force and effect as though fully set
18 forth herein.

19 105. Pursuant to California Labor Code section 1174(d), an employer shall keep, at a
20 central location in the state or at the plants or establishments at which employees are
21 employed, payroll records showing the hours worked daily by and the wages paid to, and the
22 number of piece-rate units earned by and any applicable piece rate paid to, employees
23 employed at the respective plants or establishments. These records shall be kept in accordance
24 with rules established for this purpose by the commission, but in any case shall be kept on file
25 for not less than two years.

26 106. Defendants have intentionally and willfully failed to keep accurate and complete
27 payroll records showing the hours worked daily and the wages paid, to Plaintiff and the other
28 class members.

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TENTH CAUSE OF ACTION

(Violation of California Business & Professions Code §§ 17200, et seq.)

(Against CINTAS CORPORATION NO.3, CINTAS CORPORATION NO.2, CINTAS CORPORATE SERVICES, INC., CINTAS CORPORATION and DOES 1 through 100)

114. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 113, and each and every part thereof with the same force and effect as though fully set forth herein.

115. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to Plaintiff, other class members, to the general public, and Defendants' competitors. Accordingly, Plaintiff seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

116. Defendants' activities as alleged herein are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code section 17200, et seq.

117. A violation of California Business & Professions Code section 17200, et seq. may be predicated on the violation of any state or federal law. In this instant case, Defendants' policies and practices of requiring employees, including Plaintiff and the other class members, to work overtime without paying them proper compensation violate California Labor Code sections 510 and 1198. Additionally, Defendants' policies and practices of requiring employees, including Plaintiff and the other class members, to work through their meal and rest periods without paying them proper compensation violate California Labor Code sections 226.7 and 512(a). Defendants' policies and practices of failing to pay minimum wages violate California Labor Code sections 1194, 1197, and 1197.1. Moreover, Defendants' policies and practices of failing to timely pay wages to Plaintiff and the other class members violate California Labor Code sections 201, 202 and 204. Defendants also violated California Labor Code sections 226(a), 1174(d), 2800 and 2802.

118. As a result of the herein described violations of California law, Defendants unlawfully gained an unfair advantage over other businesses.

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1 119. Plaintiff and the other class members have been personally injured by
2 Defendants' unlawful business acts and practices as alleged herein, including but not
3 necessarily limited to the loss of money and/or property.

4 120. Pursuant to California Business & Professions Code sections 17200, et seq.,
5 Plaintiff and the other class members are entitled to restitution of the wages withheld and
6 retained by Defendants during a period that commences four years preceding the filing of this
7 Complaint; an award of attorneys' fees pursuant to California Code of Civil procedure section
8 1021.5 and other applicable laws; and an award of costs.

9 **DEMAND FOR JURY TRIAL**

10 Plaintiff, individually, and on behalf of other members of the general public similarly
11 situated, requests a trial by jury.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff, individually, and on behalf of other members of the general
14 public similarly situated, prays for relief and judgment against Defendants, jointly and
15 severally, as follows:

16 **Class Certification**

- 17 1. That this action be certified as a class action;
- 18 2. That Plaintiff be appointed as the representative of the Class;
- 19 3. That counsel for Plaintiff be appointed as Class Counsel; and
- 20 4. That Defendants provide to Class Counsel immediately the names and most
21 current/last known contact information (address, e-mail and telephone numbers) of all class
22 members.

23 **As to the First Cause of Action**

- 24 5. That the Court declare, adjudge and decree that Defendants violated California
25 Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay
26 all overtime wages due to Plaintiff and the other class members;
- 27 6. For general unpaid wages at overtime wage rates and such general and special
28 damages as may be appropriate;

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1 proof;

2 20. For premium wages pursuant to California Labor Code section 226.7(c);

3 21. For pre-judgment interest on any unpaid wages from the date such amounts
4 were due; and

5 22. For such other and further relief as the Court may deem just and proper.

6 **As to the Fourth Cause of Action**

7 23. That the Court declare, adjudge and decree that Defendants violated California
8 Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to
9 Plaintiff and the other class members;

10 24. For general unpaid wages and such general and special damages as may be
11 appropriate;

12 25. For statutory wage penalties pursuant to California Labor Code section 1197.1
13 for Plaintiff and the other class members in the amount as may be established according to
14 proof at trial;

15 26. For pre-judgment interest on any unpaid compensation from the date such
16 amounts were due;

17 27. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
18 California Labor Code section 1194(a);

19 28. For liquidated damages pursuant to California Labor Code section 1194.2; and

20 29. For such other and further relief as the Court may deem just and proper.

21 **As to the Fifth Cause of Action**

22 30. That the Court declare, adjudge and decree that Defendants violated California
23 Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the
24 time of termination of the employment of Plaintiff and the other class members no longer
25 employed by Defendants;

26 31. For all actual, consequential, and incidental losses and damages, according to
27 proof;

28 32. For statutory wage penalties pursuant to California Labor Code section 203 for

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1 Plaintiff and the other class members who have left Defendants' employ;

2 33. For pre-judgment interest on any unpaid compensation from the date such
3 amounts were due; and

4 34. For such other and further relief as the Court may deem just and proper.

5 **As to the Sixth Cause of Action**

6 35. That the Court declare, adjudge and decree that Defendants violated California
7 Labor Code section 204 by willfully failing to pay all compensation owed at the time required
8 by California Labor Code section 204 to Plaintiff and the other class members;

9 36. For all actual, consequential, and incidental losses and damages, according to
10 proof;

11 37. For pre-judgment interest on any unpaid compensation from the date such
12 amounts were due; and

13 38. For such other and further relief as the Court may deem just and proper.

14 **As to the Seventh Cause of Action**

15 39. That the Court declare, adjudge and decree that Defendants violated the record
16 keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders
17 as to Plaintiff and the other class members, and willfully failed to provide accurate itemized
18 wage statements thereto;

19 40. For actual, consequential and incidental losses and damages, according to proof;

20 41. For statutory penalties pursuant to California Labor Code section 226(e);

21 42. For injunctive relief to ensure compliance with this section, pursuant to
22 California Labor Code section 226(h); and

23 43. For such other and further relief as the Court may deem just and proper.

24 **As to the Eighth Cause of Action**

25 44. That the Court declare, adjudge and decree that Defendants violated California
26 Labor Code section 1174(d) by willfully failing to keep accurate and complete payroll records
27 for Plaintiff and the other class members as required by California Labor Code section
28 1174(d);

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- 1 45. For actual, consequential and incidental losses and damages, according to proof;
- 2 46. For statutory penalties pursuant to California Labor Code section 1174.5; and
- 3 47. For such other and further relief as the Court may deem just and proper.

4 As to the Ninth Cause of Action

5 48. That the Court declare, adjudge and decree that Defendants violated California
6 Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff and the other
7 class members for all necessary business-related expenses as required by California Labor
8 Code sections 2800 and 2802;

- 9 49. For actual, consequential and incidental losses and damages, according to proof;
- 10 50. For the imposition of civil penalties and/or statutory penalties;
- 11 51. For reasonable attorneys' fees and costs of suit incurred herein; and
- 12 52. For such other and further relief as the Court may deem just and proper.

13 As to the Tenth Cause of Action

14 53. That the Court decree, adjudge and decree that Defendants violated California
15 Business and Professions Code sections 17200, et seq. by failing to provide Plaintiff and the
16 other class members all overtime compensation due to them, failing to provide all meal and
17 rest periods to Plaintiff and the other class members, failing to pay at least minimum wages to
18 Plaintiff and the other class members, failing to pay Plaintiff's and the other class members'
19 wages timely as required by California Labor Code section 201, 202 and 204 and by violating
20 California Labor Code sections 226(a), 1174(d), 2800 and 2802.

21 54. For restitution of unpaid wages to Plaintiff and all the other class members and
22 all pre-judgment interest from the day such amounts were due and payable;

23 55. For the appointment of a receiver to receive, manage and distribute any and all
24 funds disgorged from Defendants and determined to have been wrongfully acquired by
25 Defendants as a result of violation of California Business and Professions Code sections
26 17200, et seq.;

27 56. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
28 California Code of Civil Procedure section 1021.5;

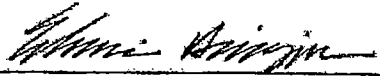
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57. For injunctive relief to ensure compliance with this section, pursuant to California Business and Professions Code sections 17200, et seq.; and

58. For such other and further relief as the Court may deem just and proper.

Dated: September 16, 2020

LAWYERS for JUSTICE, PC

By: 

Edwin Aiwazian
Attorneys for Plaintiff

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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Alleges California Cintas Corporation Employees Denied Proper Wages, Breaks](#)
