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 ALAMEDA COUNTY
 October 23, 2019
 CLERK OF
 THE SUPERIOR COURT
 By Milagros Cortez, Deputy
 CASE NUMBER:
RG19002623

Attorneys for Plaintiff and the Putative Class

11 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
 12
 13 **COUNTY OF ALAMEDA**

15 **LISA STEMPIEN**, individually and on behalf of
all others similarly situated,

16 Plaintiff,

17 vs.

18 **DEVRY UNIVERSITY, INC.**, a Delaware
19 Corporation,

20 Defendant.

CASE NO. RG19002623

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

- (1) Failure to Pay Wages for All Hours Worked (Cal. Labor Code §§ 226.2, 1194, 1194.2; IWC Wage Order No. 4-2001, § 4);
- (2) Failure to Authorize and Permit Paid Rest Breaks and Pay Premium Pay (Cal. Labor Code §§ 226.2, 226.7; IWC Wage Order No. 4-2001, §§ 4, 12);
- (3) Failure to Issue Accurate Wage Statements (Labor Code § 226(a) and (e); 226.2);
- (4) Failure to Pay Compensation Due Upon Discharge From Employment (Cal. Labor Code §§ 201-203);
- (5) Failure to Reimburse for Business-Related Cellphone Usage (Cal. Labor Code § 2802); and
- (6) Unfair, Unlawful, or Fraudulent Business Practices (Cal. Bus. & Prof. Code § 17200 et seq.).

DEMAND FOR JURY TRIAL

1 Plaintiff Lisa Stempien (“Plaintiff”), on behalf of herself and all others similarly situated,
2 complains and alleges the following:

3 **INTRODUCTION**

4 1. This is a class action under California Code of Civil Procedure § 382 seeking damages
5 for unpaid wages, unpaid premium pay, unreimbursed business expenses, penalties, interest, and other
6 equitable relief, and reasonable attorneys’ fees and costs under Cal. Labor Code (“Labor Code”) §§
7 226(e), 226.2, 226.7, 1194, 1194.2, 2802, 201-203, and IWC Wage Order (“Wage Order”) No. 4-2001
8 §§ 4 and 12, Cal. Civ. Proc. Code § 1021.5, and restitution under California’s Unfair Competition Law
9 (“UCL”), Business & Professions Code §§ 17200 *et seq.*

10 2. Plaintiff brings this action on behalf of herself and all other similarly situated individuals
11 currently and formerly employed in California by DeVry University, Inc. (“DeVry” or “Defendant”) as
12 adjunct instructors or in a similar capacity (“Class Members”) from four years prior to the filing of this
13 Complaint through to the trial date (“Class Period”). Defendant’s violations of California’s wage and
14 hour laws and unfair competition laws, as described more fully below, have been ongoing for at least
15 the past four years, and are continuing at present.

16 3. During the Class Period, Plaintiff and Class Members were non-exempt employees and
17 were paid on a piece-rate basis or “Course Rate” – a set amount for each course taught during an
18 academic quarter. However, Defendant failed to pay Class Members at least minimum wage for non-
19 productive work outside the classroom teaching time in violation of Labor Code §§ 226.2 and 1194, and
20 Wage Order No. 4-2001, § 4.

21 4. During the Class Period, Defendant failed to authorize and permit Class Members to take
22 paid off-duty rest breaks, failed to pay Class Members for their rest breaks separately and apart from the
23 Course Rate, and failed to pay premium pay for missed rest breaks, in violation of Labor Code §§ 226.2,
24 226.7 and Wage Order No. 4-2001 § 12.

25 5. During the Class Period, Plaintiff and Class Members incurred business expenses in
26 direct consequence of the discharge of their duties, including but not limited to cellular phone related
27 business expenses, for which Defendant did not reimburse them, in violation of Labor Code § 2802.

28 6. During the one year prior to the filing of this Complaint through to the trial date (“Wage
Statement Class Period”), Defendant knowingly and intentionally failed to provide Class Members with
accurate itemized wage statements (“Wage Statement Subclass”), in violation of Labor Code § 226(a)
and 226.2.

1 start of each class in order to be available to students and prepare for class. As a result, any 3-hour class
2 requires Class Members to work for at least 3.5 consecutive hours.

3 23. Defendant has employed Class Members as adjunct instructors to teach the courses
4 offered at each campus (“Courses”) and to substitute and teach classes where another assigned adjunct
5 instructor would be absent (“Substitute Classes”). During the Class Period, Class Members were
6 employed on a per-course basis to teach a specific course. Class Members taught the Courses to students
7 using materials from approved curriculum in accordance with an assigned schedule.

8 24. During the Class Period, in addition to teaching the Courses and Substitute Classes,
9 Defendant required and expected Class Members to perform numerous non-productive tasks that must
10 necessarily be done outside of class time. These tasks include, but are not limited to: (1) arriving on
11 campus at least 30 minutes prior to the start of class to make themselves available to meet with students
12 for office hours and prepare class materials; (2) being available to students to meet for office hours after
13 class; (3) being available to students during the week, including by phone and email and responding to
14 student phone calls and emails within 24 to 48 hours; (4) creating course materials, such as syllabi,
15 online discussions, tests and quizzes; (4) creating faculty expectation lists, course calendars, and bios for
16 posting online; (5) building daily lesson plans and lectures; (6) grading assignments, tests and quizzes
17 and posting grades online along with grading feedback; (7) completing end-of-term checklists with
18 student grades; (8) posting online discussion threads once per week and actively participating in online
19 discussion threads at least 15 minutes a day and 4 days per week; (9) attending faculty orientations,
20 meetings and workshops; (10) attending graduations; (11) taking attendance daily and entering
21 attendance online by midnight the day of the class (“Non-Teaching Tasks”).

22 ***B. Defendant Compensated Class Members Based on the Number of Courses Taught or***
23 ***Substitute Classes Taught***

24 25. During the Class Period, Defendant paid Class Members a flat Course Rate for each
25 Course taught and for each Substitute Class taught. The Course Rate is paid to Class Members for
26 successful completion of each assigned Course. In any given academic quarter, Defendant scheduled
27 Class Members to teach a different number of Courses, sometimes teaching one, two, or no Courses. For
28 example, Defendant paid Plaintiff a Course Rate of \$600 per credit hour, meaning that she was paid
\$1,800 for 3-credit courses and \$2,400 for 4-credit courses. This was the average Course Rate paid to
teach one Class for one 8-week academic semester.

29 26. During the Class Period, Class Members were also paid a set rate for the successful
completion of each assigned Substitute Class. The set rate was the same the Course Rate, i.e., for a 3-

1 credit course consisting of eight classes, the set rate for teaching one substitute class as was 1/8 of the
2 Course Rate, or \$225.

3 ***C. Class Members Are Non-Exempt Employees under Wage Order No. 4-2001***

4 27. During the Class Period, Class Members did not qualify as exempt under any exemptions
5 set forth in Wage Order No. 4-2001, § 1(A) as Class Members were not paid a salary, but rather by the
6 piece (i.e., by the Course), and, in any event, Class Members were paid less than the monthly salary
7 equivalent of two times the California minimum wage for full-time employment. For example, during
8 her employment as an adjunct instructor from August 2013 to October 2016, Plaintiff earned
9 substantially less than the applicable monthly salary equivalent of two times the California minimum
10 wage for full-time employment.

11 28. As a result, during the Class Period Defendant was required to comply with the wage and
12 hour obligations to Class Members, including but not limited to, the obligation to pay wages for all
13 hours worked, to pay for non-productive time separate and apart from the piece, to authorize and permit
14 paid rest periods, and to pay for time spent on rest periods separate and apart from piece, pursuant to
15 Labor Code §§ 1194, 226.2 226.7 and Wage Order No. 4-2001 §§ 4 and 12.

16 ***D. Defendant's Compensation Practices for Class Members Violated California's Minimum
17 Wage and Rest Period Laws***

18 29. Because Class Members are non-exempt employees who are paid by the piece,
19 Defendant is legally required under Labor Code §§ 1194 and 226.2 to pay them at least minimum wage
20 for all hours spent performing Non-Teaching Tasks. However, throughout the Class Period, Defendant
21 failed to pay any wages to Plaintiff and Class Members for the time spent on Non-Teaching Tasks. Nor
22 did Defendant provide any means or mechanism for Plaintiff and Class Members to record their time
23 spent performing Non-Teaching Tasks, and had no practice and/or policy in place to compensate Class
24 Members for any work performed outside of class time.

25 30. Defendant is also legally required under Labor Code § 226.2 to pay Class Members their
26 average hourly rate for their time spent on rest breaks separately and apart from the Course Rate, but did
27 not do so. As a result, Defendant authorized, at most, only unpaid rest breaks. Because any rest breaks
28 that Class Members took were unpaid, Defendant failed to authorize compliant rest breaks in
accordance with § 12 of the applicable Wage Order and applicable law, thereby triggering an obligation
to make premium payments to Class Members under Labor Code § 226.7 and Wage Order No.-2001,

31. During the Class Period, Defendant's policies and/or practices also did not authorize and
permit Class Members to take paid off-duty rest periods. At a minimum, Plaintiff and Class Members

1 should have been provided a paid 10-minute rest break during their class sessions that were scheduled
2 for at least 3 hours and that were in fact 3.5 hours long including the required 30 minutes of pre-class
3 preparation time. Defendant, however maintained policies and practices that instructed and/or expected
4 Class Members to devote the entire scheduled class time to making themselves available to students
5 including time before class as office hours to answer students' questions. Thus, Defendant failed to
6 authorize and permit compliant rest breaks in accordance with Wage Order No. 4-2001, § 12(A) thereby
7 triggering an obligation to make premium payments to Plaintiff and Class Members on a class-wide
8 basis under Labor Code § 226.7 and Wage Order No.-2001, § 12(B).

9 32. As an additional consequence of Defendant's failure to pay wages owed for Non-
10 Teaching Tasks and premium pay rest breaks, Plaintiff and Waiting Time Penalty Subclass Members
11 did not receive all compensation due to them in their final paychecks. As a result, Plaintiff and the other
12 Waiting Time Penalty Subclass Members did not receive all wages due upon termination; nor did they
13 receive these wages due within 30 days of the separation of their employment from Defendant.

14 ***E. Defendant Failed to Issue Accurate Itemized Wage Statements***

15 33. During the Wage Statement Class Period, as a consequence of Defendant's failure to pay
16 wages owed for Non-Teaching Tasks and rest breaks, Defendant failed to issue accurate wage
17 statements to Wage Statement Subclass Members which included (1) gross wages earned, (2) total hours
18 worked, (3) the number of piece-rate units earned and any applicable piece rate, (4) net wages earned
19 (5) total hours of compensable rest and recovery periods; (6) rate of compensation for rest and recovery
20 periods; (7) gross wages paid for compensable rest and recovery periods; (8) total hours of
21 nonproductive time; (9) rate of compensation for nonproductive time; and (10) gross wages paid for
22 nonproductive time, as required under Labor Code §§ 226(a) and 226.2(a).

23 34. As a result, Wage Statement Class Members could not readily ascertain their regular
24 hourly rate, the total hours worked at that rate, the total hours worked during a pay period, and the gross
25 and net wages earned from the wage statements alone, without reference to other document or
26 information, including wage statements from previous pay periods. Wage Statement Class Members
27 have therefore suffered injury for the purposes of Labor Code § 226(e).

28 ***F. Defendant Failed to Reimburse Class Members for their Necessarily-Incurred Cell Phone-
Related Business Expenses***

35. Throughout the Class Period, Defendant expected and required Class Members to be
available to students by phone (and email) during the week. Defendant required Class Members to
return all phone calls within 24 hours, but no more than 48 hours, of receiving the call. While

1 Defendant maintained a faculty room for each campus where Class Members could make phone calls
2 to students, it was inadequately equipped with landline phones for all of the Class Members on campus
3 to use. When the faculty room phones were not available, or when Class Members were not on campus
4 or in a different area of the campus, Class Members could not complete their work duties without the
5 use of their personal cell phones. Class Members were also expected and required to provide students
6 with their cell phone numbers to accept calls from them or messages from them regarding tardiness,
7 absence, or other matters.

8 36. Throughout the Class Period, Defendant did not furnish Plaintiff and Class Members
9 with a cell phone. Plaintiff and Class Members were thus expected by Defendant to pay for, and have
10 personally paid for, the purchase and maintenance of cell phones in the discharge of their job duties
11 (“Cell Phone Business Expenses”). As such, Defendant was aware, or should have been aware, that
12 Class Members were using their personal cell phones at their own expense in direct consequence of the
13 discharge of their job duties. Defendant did not reimburse Class Members in any amount for any such
14 expenses incurred throughout the Class Period as required by California law under Labor Code § 2802.

15 ***G. Defendant’s Labor Code Violations Were Unfair Business Practices***

16 37. From at least four years prior to filing this complaint, through the present, Defendant has
17 adopted and used unfair business practices to reduce Class Members’ compensation and increase profits.
18 These unfair business practices include failing to pay Class Members for their time spent on rest periods
19 separate and apart from the Course Rate; failing to authorize and permit timely off-duty rest periods;
20 failing to pay premium pay for missed rest breaks; failing to pay Class Members for their time spent
21 Non-Teaching Tasks separately and apart from their Course Rate or at all; and failing to reimburse cell-
22 phone business expenses.

23 **CLASS ACTION ALLEGATIONS**

24 38. Plaintiff brings this class action pursuant to Cal. Civ. Pro. Code. § 382 on behalf of the
25 Class and Waiting Time Penalty Subclass. Upon information and belief, there are more than 100 Class
26 Members, and more than 100 Waiting Time Penalty Subclass Members. The members of the Class and
27 Waiting Time Penalty Subclass are so numerous that joinder of all members is impractical.

28 39. Plaintiff’s claims are typical of the claims of the members of the Class and Waiting
Time Penalty Subclass because she was an adjunct instructor who was (a) not paid at least her average
hourly rate for time spent on rest breaks and at least minimum wage for Non-Teaching Tasks separately
and apart from the Court Rate, (b) subject to Defendants policies and practices that prevented and/or
impeded her ability to take authorized and permitted to take paid off-duty rest periods, (c) not paid break

1 premium pay; (d) not paid all wages due at termination, and (e) not compensated for Cell Phone
2 Business Expenses.

3 40. Plaintiff will fairly and adequately represent the interests of the Class and Waiting Time
4 Penalty Subclass. Plaintiff has no conflict of interest with any member of the Class and Waiting Time
5 Penalty Subclass. Plaintiff has retained competent and experienced counsel in complex class action
6 litigation. Plaintiff's counsel has the expertise and financial resources to adequately represent the
7 interests of the Class and Waiting Time Penalty Subclass.

8 41. Common questions of law and fact exist as to all members of the Class and the Waiting
9 Time Penalty Subclass and predominate over any questions solely affecting individual members of the
10 Class and Subclass. Among the questions of law and fact common to the Plaintiff and the Class and
11 Subclass are the following:

- 12 a. Whether Class Members are non-exempt employees, entitled to at least minimum wage
13 for all hours worked including time spent working outside of teaching the classroom,
14 entitled to paid off-duty rest breaks, and/ or entitled to separate and hourly pay for their
15 time spent on Non-Teaching tasks and on rest breaks;
- 16 b. Whether a Course rate is a piece rate;
- 17 c. Whether Defendant violated Labor Code §§ 226.2 and 1194 and Wage Order No. 4 2001,
18 § 4 by failing to pay Plaintiff and the Class at least minimum wage for their time spent on
19 their Non-Teaching Tasks during the Class Period;
- 20 d. Whether Defendant is liable for liquidated damages to Plaintiff and the Class under
21 Labor Code § 1194.2 for its failure to pay for their time spent on Non-Teaching Tasks
22 during the Class Period;
- 23 e. Whether Defendant violated Labor Code §§ 226.2 and Wage Order No. 4-2001, § 4 by
24 failing to pay Plaintiff and the Class separately and apart from the Course Rate for their
25 rest breaks during the Class Period;
- 26 f. Whether Defendant violated Wage Order No. 4-2001 § 12 maintained policies and
27 practices that prevented or impeded Class Members from being authorized and permitted
28 paid rest periods during the Class Period;
- g. Whether Defendant violated Labor Code § 226.7 and Wage Order No. 4-2001 § 12 by
failing to pay one hour of premium pay to each member of the Class for each day that a paid
rest period was not provided during the Class Period;

- 1 h. Whether Defendant violated Labor Code § 226(a) and 226.2 by failing to issue itemized
- 2 wage statements to Wage Statement Subclass Members;
- 3 i. Whether Defendant's violation of Labor Code § 226(a) was knowing and intentional;
- 4 j. Whether Wage Statement Subclass Members suffered injury for the purposes of Labor
- 5 Code § 226(e);
- 6 k. Whether Defendant violated Labor Code § 203 by failing to pay Waiting Time Penalty
- 7 Subclass for all of their wages due to them upon separation of their employment,
- 8 including the wages owed to them for their time spent on rest periods and Non-Teaching
- 9 Tasks;
- 10 l. Whether Plaintiff and Class Members incurred Cell Phone Business Expenses;
- 11 m. Whether Defendant's failure to reimburse the Class' Cell Phone Business Expenses was
- 12 the result of, and/or pursuant to, a business policy or regular practice of Defendant;
- 13 n. Whether Defendant violated Labor Code § 2802 by denying Plaintiff and other Class
- 14 Members reimbursement for their Cell Phone Business Expenses;
- 15 o. Whether these violations constitute unfair, unlawful, and fraudulent business practices, in
- 16 violation of UCL;
- 17 p. Whether Plaintiff and Class Members are entitled to restitution under Bus. & Prof. Code
- 18 § 17200 *et seq.* for uncompensated wages, unpaid premium pay, and unreimbursed Cell
- 19 Phone Business Expenses; and
- 20 q. The proper formula(s) for calculating damages, interest, and restitution owed to Plaintiff
- 21 and the Class and Subclass Members;
- 22 r. Whether the Class is entitled to declaratory relief.

23 42. Class action treatment is superior to any alternative to ensure the fair and efficient
24 adjudication of the controversy alleged herein. Such treatment will permit a large number of similarly
25 situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and
26 without duplication of effort and expense that numerous individual actions would entail. No difficulties
27 are likely to be encountered in the management of this class action that would preclude its maintenance
28 as a class action, and no superior alternative exists for the fair and efficient adjudication of this
controversy. Class Members are readily identifiable from Defendant's employee rosters and/or payroll
records.

43. Defendant's actions are generally applicable to the entire Class. Prosecution of separate
actions by individual members of each Class creates the risk of inconsistent or varying adjudications of

1 the issues presented herein, which, in turn, would establish incompatible standards of conduct for
2 Defendant.

3 44. Because joinder of all members is impractical, a class action is superior to other available
4 methods for the fair and efficient adjudication of this controversy. Furthermore, the amounts at stake for
5 many members of each Class, while substantial, may not be sufficient to enable them to maintain
6 separate suits against Defendant.

7 **FIRST CAUSE OF ACTION**

8 **Failure to Pay for All Hours Worked**

9 **[Cal. Labor Code §§ 226.2, 1194, 1194.2; Wage Order No. 4-2001, § 4]**

10 45. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in
11 the preceding paragraphs.

12 46. Labor Code § 1194 provides, in relevant part:

13 “Notwithstanding any agreement to work for a lesser wage, any employee receiving less
14 than the legal minimum wage ... applicable to the employee is entitled to recover in a
15 civil action the unpaid balance of the full amount of this minimum wage [...], including
16 interest thereon, reasonable attorney’s fees, and costs of suit.”

17 47. Labor Code § 1194.2 provides, in relevant part:

18 “In any action under ... Section 1194 to recover wages because of the payment of a wage
19 less than the minimum wage fixed by an order of the commission, an employee shall be
20 entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid
21 and interest thereon. ...”

22 48. Labor Code § 226.2(a)(1) states that “employees shall be compensated
23 for...nonproductive time separate from any piece-rate compensation.”

24 49. As set forth above, during the Class Period, Plaintiff and Class Members were paid a
25 Course Rate for the time spent on teaching courses, but Defendant did not compensate them for their
26 time spent on Non-Teaching Tasks, separately from the Course Rate, or at all.

27 50. Accordingly, pursuant to § 4 of the Wage Order and Labor Code §§ 226.2, 1194 and
28 1194.2, Plaintiff and the Class are entitled to recover, at a minimum, their unpaid hourly wages, plus
liquidated damages in an additional amount equal to the total amount of applicable minimum wages
unlawfully withheld during the Class Period for Class Members’ time spent on Non-Teaching Tasks.

51. Plaintiff, on behalf of herself and all other Class Members, requests relief as described
below.

SECOND CAUSE OF ACTION

Failure to Authorize and Permit Paid Rest Periods or Pay Missed Rest Period Premiums

1 rest breaks separately and apart from the piece, and failed to pay rest break premium pay during their
2 employment, or upon their termination or separation from employment with Defendant, as required by
3 Labor Code §§ 201 and 202.

4 69. In light of the clear law requiring that Defendant pay for time spent on Non-Teaching
5 Tasks and rest breaks hourly and separately from the Course Rate, and the clear law requiring
6 Defendant to authorize and permit Class Members to take off-duty rest breaks and pay premium pay for
7 missed rest breaks, Defendant's failure to pay wages for such time was willful.

8 70. As a result, Defendant is liable to Plaintiff and other members of the Waiting Time
9 Penalty Subclass for waiting time penalties amounting to thirty (30) days wages for each formerly
10 employed Class Member pursuant to Labor Code § 203.

11 71. Plaintiff, on behalf of herself and all other Class Members, requests relief as described
12 below.

13 **FIFTH CAUSE OF ACTION**
14 **Failure to Reimburse Cell Phone Business Expenses**
15 **[Cal. Labor Code § 2802]**

16 72. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in
17 the preceding paragraphs.

18 73. Labor Code § 2802 provides:

19 "[a]n employer shall indemnify his or her employee for all necessary expenditures or
20 losses incurred by the employee in direct consequence of the discharge of his or her duties."

21 74. In order to discharge their duties for Defendant, Plaintiff and the Class Members were
22 expected and/or required by Defendant's policies to use their own personal cell phones for work-related
23 calls to students.

24 75. Although having knowledge of such cell phone usage, Defendant did not reimburse
25 Plaintiff and the Class Members for their Cell Phone Business Expenses, as required by Labor Code §
26 2802.

27 76. Defendant's failure to reimburse Plaintiff's and Class Members' Cell Phone Business
28 Expenses violated non-waivable rights secured to them by Labor Code § 2802. Plaintiff and the other
Class Members are entitled to reimbursement for these Cell Phone Business Expenses, plus interest and
attorneys' fees and costs, under Labor Code § 2802.

77. Plaintiff, on behalf of herself and all other Class Members, requests relief as described
below.

SIXTH CAUSE OF ACTION

1 **Violation of Unfair Competition Laws**
2 **[Cal. Bus. & Prof. Code § 17200 *et seq.*]**
3 **As to Plaintiff and the Class**

4 78. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in
5 the preceding paragraphs.

6 79. The UCL prohibits any unlawful, unfair, or fraudulent business practices. Labor Code
7 § 90.5(a) states that it is the public policy of California to vigorously enforce minimum labor standards
8 in order to ensure employees are not required to work under substandard and unlawful conditions, and
9 to protect employers who comply with the law from those who attempt to gain competitive advantage at
10 the expense of their workers by failing to comply with minimum labor standards. Through its actions
11 alleged herein, Defendant has engaged in unfair competition within the meaning of the UCL, because
12 Defendant's conduct has violated state wage and hour laws as herein described.

13 80. Beginning at least four years prior to the filing of this Complaint, Defendant committed,
14 and continues to commit, acts of unfair competition, as defined in the UCL by wrongfully denying Class
15 Members payment in the amount of at least minimum wages for all their hours worked in violation of
16 Labor Code §§ 226.2 and 1194 and Wage Order No. 4-2001 § 4; by failing to pay Class Members for
17 their rest breaks separately and apart from the Course Rate in violation of Labor Code § 226.2; by
18 failing to authorize and permit paid rest breaks and pay premium pay for missed rest breaks in violation
19 of Labor Code § 226.7 and Wage Order No. 4-2001 § 12; and by failing to reimburse Class Members
20 for their Cell Phone Business Expenses in violation of Code § 2802.

21 81. By its actions and omissions, Defendant has substantially injured Plaintiff and the Class
22 Members. Defendant's conduct as herein alleged has damaged Plaintiff and the Class and was
23 substantially injurious to them.

24 82. The harm to Plaintiff and the Class resulting from Defendant's labor code violations
25 outweighs the utility, if any, of Defendant's policies and practices. Therefore, Defendant's actions
26 described herein constitute an unfair business practice or act within the meaning of the UCL.

27 83. Plaintiff, on behalf of herself and all other Class Members, requests relief as described
28 below.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of herself and the Class, prays for the following relief:

1 A. An Order that this action may proceed and be maintained as a class action, with the Class
2 and Subclass as designated and defined in this Complaint, and that the Plaintiff and her counsel be
3 certified as representatives and Counsel for the Class and Subclass, respectively.

4 B. On the First Cause of Action: That the Court find and declare that Defendant violated
5 Labor Code §§ 226.2, 1194, and 1194.2 and Wage Order No. 4-2001, § 4 by failing to pay Plaintiff and
6 Class Members for their time spent on Non-Teaching Tasks separately and apart from the Course Rate,
7 or at all, and award Plaintiff and the Class the amount of their unpaid minimum wages owed to them for
8 Non-Teaching Tasks, plus liquidated damages in an additional amount equal to the amount of wages
unlawfully withheld during the Class Period.

9 C. On the Second Cause of Action: That the Court find and declare that Defendant violated
10 Labor Code §§ 226.2, 226.7 and Wage Order No. 4-2001, § 12 by failing to pay Plaintiff and Class
11 Members for their time spent on rest breaks separately and apart from the Course Rate, failing to
12 authorize and permit timely off-duty rest breaks, and failing to pay premium pay for rest breaks; and
award Plaintiff and the Class unpaid premium pay for missed rest breaks.

13 D. On the Third Cause of Action: That the Court find and declare that Defendant violated
14 Labor Code §§ 226(a) ad 226.2, and award Plaintiff and Wage Statement Subclass Members statutory
15 penalties under Labor Code § 226(e);

16 E. On the Fourth Cause of Action That the Court find and declare that Defendant has
17 violated §§ 201–203 of the California Labor Code, and award Plaintiff and the Waiting Time Penalty
18 Subclass penalties in the amount of 30 days’ wages per Waiting Time Penalty Subclass member;

19 A. On the Fifth Cause of Action: That the Court find and declare that Defendant’s business
20 expense policies and/or practices violate California law, including Labor Code § 2802, by refusing
21 and/or failing to reimburse Cell Phone Business Expenses incurred by Plaintiff and Class Members, and
22 that the Court award to Plaintiff and the Class Members all Cell Phone Business Expenses, and interest
thereon, that they are owed, pursuant to Labor Code § 2802, in an amount to be proved at trial;

23 B. On the Sixth Cause of Action: That the Court find and declare Defendant has violated the
24 UCL failing to authorize and permit paid rest breaks for members of the Class and failing to pay Class
25 Members for their rest beak separately and apart from the Course Rate, in violation of Labor Code §§
26 226.2, 226.7, and Wage Order No. 4-2001, § 12; by failing to pay Class Members for their Non-
27 Teaching Tasks; and failing to reimburse their Cell Phone Business Expenses; and award restitution to
the Class, including, but not limited to, an additional hour of pay at the employee’s regular rate of
28

1 compensation for each day that a paid rest break was not provided during the Class Period; wages owed
2 to them for Non-Teaching Tasks and reimbursement of their Cell Phone Business Expenses;

3 C. That the Court award attorneys' fees and costs of suit to the extent permitted by law,
4 including, but not limited to, Labor Code §§ 1194, 2802(c) and Cal. Civ. Pro. Code § 1021.5.

5 D. All other relief as this Court deems proper.

6 **JURY DEMAND**

7 Plaintiff hereby demands trial by jury of all claims against Defendant alleged herein.

8 Dated: October 2, 2019

Respectfully submitted,

9
10
11 
12 By: Julian Hammond
13 HAMMONDLAW, P.C.
14 *Attorneys for Plaintiff*