

Exhibit 1

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

12 HAROLD JONES, GENEVA KNIGHT,
TIERRE CRUMMIE, SANDRA TURNER,
13 and GEORGE AZEVEDO, JR.,
individually and on behalf of all others
14 similarly situated,
15 Plaintiffs,
16 vs.
17 CERTIFIEDSAFETY, INC.
18 Defendant.

*Jones Case No. 3:17-cv-02229-EMC
Crummie Case No. 3:17-cv-03892-EMC*

**FOURTH AMENDED CONSOLIDATED
CLASS AND COLLECTIVE ACTION
COMPLAINT**

DEMAND FOR JURY TRIAL

CLASS ACTION

*Jones Complaint filed: April 21, 2017
Crummie Complaint filed: April 24, 2017*

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FOURTH AMENDED CONSOLIDATED CLASS AND COLLECTIVE ACTION COMPLAINT
AND DEMAND FOR JURY TRIAL

*Harold Jones, et al. v. CertifiedSafety, Inc., Case No. 3:17-cv-2229-EMC
Tierre Crummie v. CertifiedSafety, Inc., Case No. 3:17-cv-03892-EMC*

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1 clients. Among other tasks, Plaintiffs and putative Class members are responsible for safety
2 supporting operations and protocols, including but not limited to, identifying, mitigating, and
3 reporting potential safety hazards at CertifiedSafety's worksites.

4 4. Plaintiffs and putative Class and Collective members work long hours. Plaintiffs are
5 regularly scheduled to work, and in fact work, twelve hour shifts for seven or more consecutive
6 days. Beyond the scheduled hours for which Plaintiffs and putative Class and Collective members
7 are scheduled to work, Plaintiffs and putative Class and Collective members are also required to
8 work before and after scheduled shifts, without compensation. Additionally, Plaintiffs and putative
9 Class and Collective members are required to attend day-long or multi-day training sessions, and
10 are not compensated for their time spent in these trainings or for their time traveling to the training
11 sites.

12 5. CertifiedSafety assigns Plaintiffs and putative Class and Collective members to work
13 at specific refineries for periods ranging up to several months. CertifiedSafety initiates contact and
14 enter into employment agreements with Class and Collective members in their home states,
15 including California, to arrange the assignments and related training. This is true even for
16 assignments outside Class and Collective members' home states.

17 6. Before Class and Collective members report to an assigned work site, CertifiedSafety
18 requires Plaintiffs and putative Class and Collective members to attend training in California.
19 Plaintiffs are all required to attend training in the State of California before job assignments, even
20 when the job assignment was to take place outside the State of California. CertifiedSafety,
21 however, does not compensate Class and Collective members for all of their time spent in pre-
22 assignment training, or the time it takes Class and Collective members to travel to training sessions.

23 7. Following pre-assignment training, Plaintiffs and putative Class and Collective
24 members travel to work locations at the designated refinery, often far from home and out of state,
25 without adequate reimbursement.

26 8. Once Plaintiffs, Class, and Collective members report to and begin their work
27 assignments, Plaintiffs and putative Class and Collective members are not paid minimum wage for

1 all hours worked, overtime rates or double time rates, as appropriate, for all hours worked above
2 eight per day and forty per week. Plaintiffs and putative Class and Collective members are also
3 routinely denied meal and rest periods. Plaintiffs and putative Class and Collective members do
4 not receive accurate, itemized wage statements reflecting the hours they actually work and the
5 amount of wages and overtime to which they are entitled and for which they should be compensated.
6 Nor are Plaintiffs and putative Class and Collective members paid all amounts owed following
7 voluntary or involuntary termination of employment.

8 9. Plaintiffs and putative Class and Collective members must also pay work expenses
9 out of pocket, without adequate reimbursement. For example, Plaintiffs and the putative Class and
10 Collective are not reimbursed for tools and protective gear necessary to safely complete their jobs.
11 Further, while Plaintiffs and putative Class and Collective members may receive a per diem to
12 mitigate the cost of lodging and other work related expenses when working at refinery sites far from
13 home, the amount allocated is regularly insufficient to cover all these expenses. Plaintiffs and Class
14 and Collective members are not adequately compensated for travel expenses to and from worksites.

15 10. As a result of these violations, Plaintiffs seek compensation, damages, penalties, and
16 interest to the full extent permitted by the FLSA, as well as the wage, hour, labor, and other
17 applicable laws of the States of Washington, California, Ohio, and Alaska, as described herein.

18 11. Plaintiff Jones seeks full compensation on behalf of himself and all others similarly
19 situated for all unpaid wages, including overtime and double time, all denied meal and rest periods,
20 unreimbursed business expenses, inaccurate wage statement penalties, waiting time penalties, and
21 penalties under the Labor Code Private Attorneys General Act of 2004 (“PAGA”).

22 12. Plaintiffs also seeks declaratory, equitable, and injunctive relief, including restitution.

23 13. Finally, Plaintiffs seeks reasonable attorneys’ fees and costs under the FLSA and
24 applicable laws of the States of Washington, California, Ohio, and Alaska, as described herein.

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PARTIES

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2 14. Plaintiffs and putative Class and Collective members are current and former Safety
3 Attendants and Safety Foreman who work for CertifiedSafety throughout the United States,
4 including but not limited to the States of California and Washington.

5 15. Plaintiff Jones is an individual over the age of eighteen, and at all times mentioned in
6 this Complaint was a resident of the State of California. Plaintiff Jones was employed by Certified
7 Safety as a Safety Attendant from 2011 to the 2017.

8 16. Plaintiff Knight is an individual over the age of eighteen, is a resident of the State of
9 California, and was employed by CertifiedSafety in or around September of 2016 to March of 2017.

10 17. Plaintiff Crummie is an individual over the age of eighteen, is a resident of the State
11 of California, and was employed by CertifiedSafety as a Safety Attendant from approximately
12 January 2009 to October 2016.

13 18. Plaintiff Turner is an individual over the age of eighteen, is a resident of the State of
14 Texas, and was employed by CertifiedSafety as a Safety Attendant from 2017 to 2018.

15 19. Plaintiff Azevedo is an individual over the age of eighteen, is a resident of the State
16 of California, and was employed by CertifiedSafety as a Safety Attendant from approximately
17 August 2008 to the present.

18 20. Plaintiffs are informed, believe, and allege that CertifiedSafety is an American
19 company that provides skilled safety personnel to clients operating oil refineries. CertifiedSafety
20 provides services to clients with oil refineries throughout the United States, including California
21 and Washington. CertifiedSafety maintains its headquarters in League City, Texas, and does
22 business throughout California and Washington. Plaintiffs are further informed, believe, and
23 thereon allege that CertifiedSafety employs hourly, non-exempt Safety Attendants and Safety
24 Foreman throughout the United States, including in California and Washington.

25 21. At all relevant times, CertifiedSafety has done business under the laws of the United
26 States, including California and Washington, as well as within this judicial district. CertifiedSafety
27 has employed Plaintiffs and putative Class and Collective members in California, and within in this

1 judicial district. At all relevant times, CertifiedSafety has been Plaintiffs’ “employer” within the
2 meaning of the FLSA, California, and Washington law.

3 **JURISDICTION AND VENUE**

4 22. This Court has federal question jurisdiction over this action pursuant to 28 U.S.C. §
5 1331. This Court has supplemental jurisdiction over Plaintiffs’ state law claims pursuant to 28
6 U.S.C. § 1367 and Section 16(b) of the FLSA, 29 U.S.C. § 216(b).

7 23. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391. A substantial
8 part of the events or omissions giving rise to Plaintiffs’ claims occurred in this judicial district.

9 **RELATION BACK**

10 24. This Third Amended Class and Collection Action Complaint relates back to Plaintiff
11 Jones’ original Complaint filed on April 21, 2017, with regards to all applicable FLSA, California,
12 and Washington law claims herein pursuant to Federal Rule of Civil Procedure 15(c).

13 **FACTUAL ALLEGATIONS**

14 **CertifiedSafety and its Safety Attendant Employees**

15 25. CertifiedSafety works with oil refineries to provide skilled personnel who specialize
16 in planning, implementing, and executing safety protocols for refinery operations. CertifiedSafety
17 provides services throughout the United States, including but not limited to California and
18 Washington. These workers are the Plaintiffs, Classes, and Collective at issue in this case
19 (hereinafter referred to as “Safety Attendants”).

20 26. Plaintiffs work for CertifiedSafety as Safety Attendants.¹ Plaintiffs’ primary duties
21 include, but are not limited to: monitoring and recording air pressure to ensure that oxygen levels
22 are safe for other workers at the refinery site; cleaning and organizing the refinery site; monitoring
23 and recording the amount of employees entering and exiting the work site; and supervising hot
24 work to prevent combustion near refinery sites.

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27 ¹ Plaintiffs Jones, Knight, Crummie, and Turner are former employees of CertifiedSafety. For ease
of reading, allegations are presented in the present tense for all Plaintiffs.

1 27. Plaintiffs, Class, and Collective members are classified as hourly, non-exempt
2 employees and are paid an hourly rate for their services. Plaintiffs work at various work sites
3 operated by clients of CertifiedSafety throughout the United States, including but not limited to
4 California and Washington.

5 28. CertifiedSafety dispatches Safety Attendants to various locations throughout the
6 United States, including in California and Washington. For each assignment, CertifiedSafety and
7 its refinery clients determine the hourly rate to be paid and the duration of the project.

8 **Training Required of Safety Attendants**

9 29. These sophisticated job duties require training. CertifiedSafety requires its Safety
10 Attendants to undergo mandatory training that consists of two eight-hour days at the beginning of
11 their employment, as well as an additional eight-hour day of continuing training each year. In
12 addition to learning about the responsibilities of the Safety Attendant position, this training provides
13 information on specific CertifiedSafety policies and procedures, such as its meal and rest break
14 policies, cell phone policies, CertifiedSafety's Code of Conduct, as well as CertifiedSafety's sexual
15 harassment and discrimination policies, just to name a few. This training is described as an
16 "orientation" to Safety Attendants' employment with CertifiedSafety, where Safety Attendants fill
17 out "new hire" paper work such as I-9s and W-4s. This training is important to CertifiedSafety's
18 ability to market its services to the oil and drilling industry, because CertifiedSafety represents that
19 its Safety Attendants go through this significant training. As a matter of policy, none of this training
20 time is compensated, nor are Safety Attendants reimbursed for any expenses relating to this
21 mandatory training.

22 30. CertifiedSafety also requires Safety Attendants to undergo training before each job
23 assignment, typically no more than one day of eight hours. Safety Attendants' ability to accept the
24 assignment is conditioned on their completion of the training. These pre-assignment trainings cover
25 specific topics and issues that the workers will encounter in the particular assignment, and are
26 conducted near the home of the Plaintiffs and putative Class and Collective members, typically in
27 Benicia, prior to their dispatch to the applicable refinery site. On information and belief, other

1 putative Class and Collective members in California are required to complete pre-assignment
2 training in California prior to their dispatch by CertifiedSafety and its refinery clients. As a matter
3 of policy, none of this training time is compensated, nor are Safety Attendants reimbursed for any
4 expenses relating to this mandatory training.

5 31. CertifiedSafety also requires Plaintiffs and putative Class and Collective members to
6 complete additional training at the refinery locations during assignments. This time is not
7 compensated.

8 **A Typical Day for Safety Attendants**

9 32. Safety Attendants work long hours – typically working twelve hours a day for thirteen
10 consecutive days, followed by one day off, and then another thirteen consecutive days of twelve-
11 hour shifts. Safety Attendants typically work this schedule until a given project is complete, which
12 generally lasts between one and three months.

13 33. Safety Attendants generally work one of two twelve-hour shifts in a twenty-four hour
14 period. For example, one group of Safety Attendants may be scheduled to work from, for example,
15 7:00 a.m. to 7:00 p.m., and another group of Safety Attendants is scheduled to work from 7:00 p.m.
16 to 7:00 a.m. But regardless of which shift Safety Attendants work, the job duties and responsibilities
17 are the same, as is the process for reporting to work, beginning the workday, taking meal and rest
18 breaks, and ending the workday.

19 34. Safety Attendants' days begin with a daily commute from their hotel room to a
20 parking lot.² Depending on the facility, the parking lot may be on site or off site. If the parking lot
21 is off site, Safety Attendants will park their car and put on their fire-retardant protective gear. This
22 protective gear uniformly includes fire-retardant coveralls or fire-retardant jacket and pants, steel-
23 toe boots, hard hat, earplugs, safety goggles, and gloves. The donning process typically takes
24 between five and twenty minutes. Once they have donned their protective gear, Safety Attendants
25 must wait for a shuttle that transports them to the facility's security gate. The process of waiting for

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27 ² More often than not, Safety Attendants work at remote locations requiring considerable travel and
temporary living arrangements.

1 a shuttle and then and being transported to the facility takes between fifteen and thirty minutes.
2 When the parking lot is on site, Safety Attendants must park and observe the same donning process;
3 however, instead of taking a shuttle to the security gate, Safety Attendants must traverse a large
4 parking lot on foot, after donning their protective gear, to the security gate. For on-site parking
5 facilities, the pre-security gate process takes between fifteen and thirty minutes.

6 35. Once they have arrived at the facility, donned their protective gear, and traveled to
7 the security gate, Safety Attendants go through a security check. This requires Safety Attendants
8 to wait in line while security inspects bags and ensures Safety Attendants are wearing all required
9 protective equipment. Indeed, according to Occupational Safety and Health Administration
10 (“OSHA”) requirements, Safety Attendants are not permitted to enter a facility unless they are
11 wearing their protective gear. See 29 CFR 1910.132. This process takes between five and fifteen
12 minutes. After Safety Attendants pass through security, they swipe a badge that confirms their right
13 to access to the facility and electronically documents the time in which they passed through security.
14 Safety Attendants report that to comply with CertifiedSafety’s and its refinery clients’ scheduling
15 and pre-shift activity requirements, they must have passed through the security gate and badged in
16 at least thirty minutes before their scheduled start times.

17 36. Once Safety Attendants go through the security check, they either walk or take a
18 shuttle to another location at the facility which typically has a lunch tent or trailer, as well as a
19 supervisor’s trailer. This process takes between five and ten minutes. Once at this location, Safety
20 Attendants drop off their lunches, obtain and begin to fill out paperwork relating to their workday,
21 gather equipment, and receive their job assignments for the day. Often, the equipment Safety
22 Attendants need for the day is not at that particular location, and they will have to walk to a different
23 part of the facility to obtain the necessary equipment. This equipment ranges from simple (e.g.,
24 hammers and brooms) to sophisticated (e.g., respirators, H2S monitors, gas monitors) and
25 everything in between (e.g., fire extinguishers, radios, and gas masks). While at the
26 lunch/supervisor trailers, Safety Attendants also attend mandatory daily safety meetings that last
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1 approximately five to ten minutes. All totaled, Safety Attendants spend approximately thirty
2 minutes engaged in these activities once they arrive at the lunch/supervisor trailers.

3 37. At some point during the day (but not necessarily when Safety Attendants first report
4 to their supervisors for the day), their supervisors document a start time on Technicians' time sheets
5 – either by writing down that start time themselves, or by directing Safety Attendants to write down
6 a specific start time, regardless of what time Safety Attendants in fact began working, and indeed,
7 regardless of what time it actually is when the start time is created. Instead, Safety attendants are
8 instructed to write down their scheduled start time, which does not account of any of the above-
9 described pre-shift activity, but denotes the time at which Safety Attendants were scheduled to start
10 working and expected to be at their post performing their assigned safety duties. Indeed,
11 CertifiedSafety admits that, as a matter of its refinery clients' policies, it is CertifiedSafety's and
12 CertifiedSafety's clients' expectation that Safety Attendants will only be clocked in for scheduled
13 work time. Notably, the time sheets for Plaintiffs and other Safety Attendants typically show Safety
14 Attendants all beginning their day at the exact same time, and almost always on a round number,
15 e.g., 6:30 a.m. or 7:00 a.m.

16 38. At this point, Safety Attendants leave the lunch/supervisor trailer location and walk
17 to their job post for the day. When at a post, Safety Attendants perform essential safety functions
18 requiring constant attention. For example, when on fire watch and monitoring a welding team,
19 Safety Attendants ensure no smoldering fires result from cutting or welding metal. Safety
20 Attendants on hole watch ensure the safety of the person working in a confined space, while
21 monitoring and recording air pressure to ensure oxygen levels are safe. The role of the Safety
22 Attendant, and the constant attention demanded by the position, is an essential part of industrial
23 maintenance safety programs.

24 39. As a result of these demanding responsibilities, Safety Attendants rarely, if ever, are
25 permitted to take meal and rest breaks. This is for several reasons. First, Safety Attendants are
26 always required to carry their radios, and are always on call. It is CertifiedSafety's and
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1 CertifiedSafety’s clients’ expectation that Safety Attendants always answer calls from their
2 supervisors at any time. Thus, no meal or rest break is ever duty-free.

3 40. Second, and with respect to meal breaks, food may not be eaten except in designated
4 locations – typically the lunch tent. However, walking from a job post to the lunch tent takes at
5 least ten to fifteen minutes. This travel time is included within their thirty-minute meal breaks.
6 Because this travel time is included in the thirty-minute meal period, any lunch Safety Attendants
7 take consists of nothing more than a couple minutes to quickly eat some food, sandwiched in
8 between walking to and from the lunch tent for the vast majority of their thirty minute break.

9 41. Third, OSHA requirements, as well as CertifiedSafety’s and CertifiedSafety’s
10 clients’ requirements, insist that much of the work performed at these facilities be monitored by
11 Safety Attendants. Thus, Safety Attendants cannot abandon the crews under their supervision
12 unless another Safety Attendant relieves them (which rarely occurs), regardless of whether it is time
13 to take a meal or rest break. This often results in meal and rest breaks never being taken, and to the
14 extent such breaks are even attempted, they are not timely. Fourth, and relatedly, Safety Attendants
15 are constantly called on their radios whenever they attempt to take a break, because the crew under
16 their supervision needs to resume working.

17 42. Despite the fact that Safety Attendants rarely (if ever) take meal or rest breaks,
18 CertifiedSafety automatically deduct thirty minutes from Safety Attendants’ pay as an
19 uncompensated meal period. CertifiedSafety has no policies, procedures, or practices to ensure
20 meal and rest breaks are being taken. Indeed, with the exception of California, CertifiedSafety
21 admitted that CertifiedSafety did nothing to track or even mark on timesheets whether meal periods
22 were taken until the Fall of 2017 – a change that was admittedly triggered by this lawsuit. Instead,
23 at the end of work shifts, CertifiedSafety’s supervisors, foreman, and managers instruct Safety
24 Attendants to write that they took a meal break at a specific time – typically at the four and a half
25 hour mark in their shift. Notably, CertifiedSafety’s records show that Safety Attendants apparently
26 took meal breaks at the exact same time – often right at the four and a half hour mark in their shift
27 – and that time just so happens to be a round number, e.g., 11:00 p.m. or 11:30 p.m.

1 43. When shifts are scheduled to end, Safety Attendants may not leave their post until
2 another Safety Attendant relieves them. This typically does not occur until after their scheduled
3 end times, and Safety Attendants frequently work fifteen minutes to an hour past their scheduled
4 end times waiting for relief. Nevertheless, Safety Attendants are expected to clock out when their
5 shift is scheduled to end, regardless of when they stopped working.

6 44. At the end of a shift, and once they are relieved by another Safety Attendant and
7 debrief with that individual, Safety Attendants walk back to the lunch/supervisor trailer area. This
8 walk takes anywhere from ten to thirty minutes. Once at the lunch/supervisor trailers, they return
9 their equipment, complete and submit their paperwork for the day, and sign out with their supervisor
10 or foreman. Safety Attendants do not write down the actual end time, but instead are instructed by
11 CertifiedSafety's supervisors and foremen to write down a specific time, or, said supervisors and
12 foremen write down this time themselves – a time that usually is the same as their scheduled end
13 times, even though the actual end time is much later. Notably, CertifiedSafety's managers, foremen
14 and supervisors even use white out or erasable pens to alter time records when Safety Attendants
15 do not report times as instructed. This applies to start and end times, as well as uncompensated
16 meal periods.

17 45. Once Safety Attendants sign out for the day, they observe the same process as their
18 pre-shift activity. This includes walking or shuttling from the lunch/supervisor trailers to the
19 security gate, going through a security check, walking or shuttling to their car, and doffing their
20 equipment.

21 46. All totaled, Safety Attendants work between one hour and fifteen minutes to two and
22 a half hours off-the-clock every day – not including thirty minutes daily for uncompensated meal
23 periods that were never provided. Safety Attendants must be parked and begin donning their
24 protective gear between one hour and one hour and fifteen minutes before their scheduled start time
25 to comply with CertifiedSafety's scheduling and pre-shift activity requirements. Likewise, Safety
26 Attendants report that they typically do not finish doffing their protective gear until between forty-
27 five minutes and one hour and fifteen minutes after their scheduled end time.

1 **Safety Attendants Incur Significant Expenses and Travel Long Distances to Work for**
2 **Defendant, Without Compensation or Adequate Reimbursement**

3 47. CertifiedSafety’s clients’ job sites are in remote locations requiring significant travel.
4 For each job, Safety Attendants are assigned to a project at a facility for one to three months. After
5 each job, Safety Attendants are laid off. These jobs may be in the same town as the Safety Attendant,
6 or in a different town. When jobs are in-town – generally, within a range of 65-75 miles –
7 CertifiedSafety does not provide any reimbursement for travel as a matter of policy, even though
8 commuting to these remote locations often takes an hour or more each way.

9 48. For out-of-town projects, CertifiedSafety provides a one-time travel reimbursement
10 and daily per diem. However, CertifiedSafety does not inquire about the travel expenses in fact
11 incurred, but instead tell Safety Attendants how much it will reimburse before the project even
12 begins. This one-time travel reimbursement is set by refineries. Refineries set the one-time travel
13 reimbursement by simply using websites to determine the number of miles between the Safety’s
14 Attendant’s residence and the jobsite, and providing the standard IRS mileage rate – nothing more.
15 However, some refineries artificially cap the amount of mileage they will reimburse, and refuse to
16 provide the correct IRS rate. CertifiedSafety does not do anything to make up the difference as a
17 matter of policy. Moreover, when a Safety Attendant does not complete the full project – either by
18 being fired or because the Safety Attendant voluntarily needed to leave – CertifiedSafety withholds
19 travel reimbursement in its entirety. Regardless, it is the overwhelming experience of Safety
20 Attendants that the travel reimbursement provided is not sufficient to cover their travel expenses.

21 49. As an example, for a California resident assigned a two-month project in Washington,
22 CertifiedSafety would provide a one-time travel reimbursement ranging from \$200 - \$470 –
23 depending on what the refinery wants to reimburse. Of course, such a paltry sum is not adequate
24 to cover airfare on one week’s notice (which is typically the amount of notice provided), even
25 though it is reasonable for Safety Attendants to incur airline travel costs when traveling such a long
26 distance. Indeed, even when Safety Attendants drive to out-of-state jobs, the reimbursement
27 provided often is not even sufficient to cover the IRS mileage rate, let alone expenses for food or

1 lodging on the road, or rental cars for Safety Attendants who do not have a vehicle capable of
2 making a 1,000-plus mile journey and back.

3 50. Additionally, Safety Attendants are not compensated at an hourly rate or otherwise
4 for the actual time it takes to travel these long distances. In fact, documents provided by
5 CertifiedSafety reveal CertifiedSafety's efforts to have Safety Attendants unlawfully waive their
6 right to claim travel time compensation when dispatching Safety Attendants, confirming that their
7 failure to compensate this time is knowing and willful.

8 51. Likewise, the daily per diem does not come close to reimbursing Safety Attendants
9 for daily living expenses. As a preliminary matter, CertifiedSafety's clients set the daily per diem
10 – typically between \$65 - \$75 a day. On information and belief, CertifiedSafety does not conduct
11 any investigations or audits to determine whether this amount is sufficient to cover necessarily-
12 incurred expenses. In any event, it is plain that \$70 a day is insufficient to cover all necessary living
13 and lodging expenses. Hotel costs alone far exceed this amount. Indeed, while even the ordinary
14 hotel costs would not be covered by this per diem, hotels within driving distance of job sites often
15 raise prices during projects, knowing demand is high with an influx of remote workers. Nightly
16 hotel costs are often nearly double Safety Attendants' daily per diem. Thus, the per diem not only
17 fails to cover hotel costs, but it does not begin to cover other necessary daily living expenses, such
18 as food, toiletries, laundry costs, and the like.

19 52. Additionally, Safety Attendants incur numerous expenses to perform their daily
20 duties that are not reimbursed. For example, Safety Attendants must purchase fire-retardant
21 protective gear, backpacks, radio holsters, gloves, earplugs, clipboards, pens, steel-toe boots, and a
22 watch.

23 53. In sum, Safety Attendants:
24 a. Are frequently denied compensation for all hours worked, including
25 minimum wage and overtime for work in excess of eight hours per day and
26 forty hours per week, as well as double time for work over twelve hours in
27 one day and over eight hours on the seventh consecutive day of work;

1 57. CertifiedSafety requires Plaintiffs and Class members to work at least seven
2 consecutive days, without a day of rest.

3 58. Plaintiffs work at several drilling sites in California and throughout the United States,
4 including but not limited to in Washington, and their experience with regards to hours worked, off-
5 the-clock work, meal and rest breaks, and unreimbursed business expenses are similar in each
6 instance. Plaintiffs are informed, believe, and thereon allege that CertifiedSafety's policies and
7 practices have at all relevant times been similar for Safety Attendants, regardless of the location
8 within the United States, including in California and Washington. CertifiedSafety's unlawful
9 conduct has been widespread, repeated, and consistent throughout its work locations in the United
10 States, including in California and Washington. CertifiedSafety knew or should have known that
11 its policies and practices have been unlawful and unfair.

12 59. CertifiedSafety's conduct was willful, carried out in bad faith, and caused significant
13 damages to non-exempt hourly employees in an amount to be determined at trial.

14 **COLLECTIVE ALLEGATIONS UNDER THE FLSA**

15 60. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
16 herein.

17 61. Plaintiffs bring their FLSA claims as a collective action pursuant to 29 U.S.C. §
18 216(b) as to claims for failing to pay Plaintiffs and Collective members for all hours worked,
19 including minimum wage, wages at the agreed rate, and overtime compensation for all hours
20 worked over 40 hours per week, liquidated damages, and attorneys' fees and costs under the FLSA.

21 The FLSA Collective that Plaintiffs seek to represent is defined as follows:

22 All current and former hourly, non-exempt Safety Attendants and
23 Safety Foremen who worked for CertifiedSafety in the United States
24 during the time period October 1, 2014 until the resolution of this
25 action.

26 Attendants bonuses does not address this wage deficiency and only further exacerbates the
27 inadequate wages they earn and are owed under the law because such bonuses are not included in
the calculation of their regular rate and fail to account for overtime and premium pay owing to such
employees.

1 70. The putative California Class that Plaintiffs Jones and Crummie seek to represent
2 regarding claims against Certified Safety for work at oil refineries in California is defined as:

3 All current and former Safety Attendants and Safety Foremen who
4 worked for CertifiedSafety at any oil refinery in California during the
5 time period April 21, 2013 until the resolution of this action (the
6 “California CertifiedSafety Class”).

7 71. The putative Washington Class that Plaintiffs Jones and Knight seek to represent
8 regarding claims against CertifiedSafety for work at oil refineries in Washington is defined as:

9 All current and former Safety Attendants and Safety Foremen who
10 worked for CertifiedSafety at any oil refinery in Washington during
11 the time period April 21, 2014 until the resolution of this action (the
12 “Washington CertifiedSafety Class”).

13 72. The putative Ohio class that Plaintiff Turner seeks to represent regarding claims
14 against CertifiedSafety for work at oil refineries in Ohio is defined as:

15 All current or former Safety Attendants and Safety Foremen who worked for
16 CertifiedSafety at any oil refinery in Ohio during the time period April 23, 2016 until
17 resolution of this action (the “Ohio CertifiedSafety Class”).

18 73. The putative Alaska class that Plaintiff Azevedo seeks to represent regarding claims
19 against CertifiedSafety for work at oil refineries in Alaska is defined as:

20 All current or former Safety Attendants and Safety Foremen who worked for
21 CertifiedSafety at any oil refinery in Alaska during the time period April 23, 2016
22 until resolution of this action (the “Alaska CertifiedSafety Class”).

23 74. This action has been brought and may properly be maintained as a class action under
24 Rule 23:

- 25 a. **Numerosity:** The potential members of the putative Classes as defined are so
26 numerous that joinder of all the members of the putative Classes is impracticable.
27 b. **Commonality:** There are questions of law and fact common to Plaintiffs and the
28 putative Classes that predominate over any questions affecting only individual
members of the putative Classes. These common questions of law and fact
include, but are not limited to:

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- i. Whether Defendant fails to compensate members of the putative Classes for all hours worked, including at minimum wage and as overtime compensation, in violation of the California Labor Code and Wage Orders, as well as Washington’s Minimum Wage Act, Revised Code of Washington 49.46, *et seq.* (“WMWA”); the Ohio Constitution, Article II, Section 34a and ORC §§ 4111.02-03; and Alaska. Stat. Ann. §§ 23.10.060 and 23.10.065(a);
- ii. Whether Defendant fails to compensate members of the putative California Class for all hours worked, including at minimum wage and as overtime compensation, in violation of Business and Professions Code §§ 17200 *et seq.*;
- iii. Whether Defendant has a policy and/or practice of requiring members of the putative Classes to be in the control of and/or spend time primarily for the benefit of Defendant, and perform off-the-clock without compensation;
- iv. Whether Defendant fails to properly pay overtime compensation, at either one and one-half times or double the regular rate of pay, to members of the putative Classes in violation of the California Labor Code and Wage Orders, as well as the WMWA, ORC 4111.03, and Alaska Stat. Ann. § 23.10.060;
- v. Whether Defendant fails to properly pay overtime compensation, at either one and one-half times or double the regular rate of pay, to putative California Class members in violation of Business and Professions Code §§ 17200 *et seq.*;
- vi. Whether Defendant fails to authorize and permit, make available, and/or provide members of the putative Classes with timely meal and rest periods

1 to which they were entitled in violation of the California Labor Code and
2 Wage Orders, as well as the WMWA;

3 vii. Whether Defendant fails to authorize and permit, make available, and/or
4 provide putative California Class members with timely meal and rest
5 periods to which they were entitled in violation of Business and
6 Professions Code §§ 17200 *et seq.*;

7 viii. Whether Defendant fails to reimburse members of the putative Classes for
8 reasonable and necessary business expenses in violation of the California
9 Labor Code and Wage Orders, as well as the WMWA;

10 ix. Whether Defendant fails to reimburse California Class members for
11 reasonable and necessary business expenses in violation of Business and
12 Professions Code §§ 17200 *et seq.*;

13 x. Whether Defendant fails to provide members of the putative Classes with
14 timely, accurate itemized wage statements in violation of the California
15 Labor Code and Wage Orders, as well as the WMWA;

16 xi. Whether Defendant fails to provide putative California Class members
17 with timely, accurate itemized wage statements in violation of Business
18 and Professions Code §§ 17200 *et seq.*;

19 xii. Whether Defendant fails to timely pay putative Class members for all
20 wages owed upon termination of employment in violation of the
21 California Labor Code, as well as the WMWA and Alaska. Stat. Ann. §
22 23.05.140;

23 xiii. Whether Defendant fails to timely pay putative California Class members
24 for all wages owed upon termination of employment in violation of
25 Business and Professions Code §§ 17200 *et seq.*;

26 xiv. Whether Defendant is liable for penalties to putative California Class
27 members under the PAGA; and

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- xv. The proper formula for calculating restitution, damages and penalties owed to Plaintiffs and the Classes as alleged herein.
- c. **Typicality:** Plaintiffs’ claims are typical of the claims of the Classes. Defendant’s common course of conduct in violation of law as alleged herein has caused Plaintiffs and members of the putative Classes to sustain the same or similar injuries and damages. Plaintiffs’ claims are therefore representative of and co-extensive with the claims of the Classes.
- d. **Adequacy of Representation:** Plaintiffs are members of the Classes, do not have any conflicts of interest with other putative Class members, and will prosecute the case vigorously on behalf of the Classes. Counsel representing Plaintiffs is competent and experienced in litigating large employment class actions, including wage and hour classes. Plaintiffs will fairly and adequately represent and protect the interests of members of the putative Classes.
- e. **Superiority of Class Action:** A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all members of the putative Classes is not practicable, and questions of law and fact common to the Classes predominates over any questions affecting only individual members of the Classes. Each members of the putative Classes have been damaged and is entitled to recovery by reason of Defendant’s illegal policies and/or practices. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. In the alternative, the Classes may be certified because the prosecution of separate actions by the individual members of the Classes would create a risk of inconsistent or varying adjudication with respect to individual members of the Classes, and, in turn, would establish incompatible standards of conduct for Defendant.

FIRST CAUSE OF ACTION
Violation of the Fair Labor Standards Act
29 U.S.C. §§ 201, et seq.
(By Plaintiffs against Defendant)

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3 75. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
4 herein.

5 76. The FLSA requires that covered employees receive compensation for all hours
6 worked and overtime compensation not less than one and one-half times the regular rate of pay for
7 all hours worked in excess of forty hours in a work week. 29 U.S.C. § 207(a)(1).

8 77. At all times material herein, Plaintiffs and the Collective are covered employees
9 entitled to the rights, protections, and benefits provided under the FLSA. 29 U.S.C. §§ 203(e) and
10 207(a).

11 78. Defendant is a covered employer required to comply with the FLSA's mandates.

12 79. Defendant has violated the FLSA with respect to Plaintiffs and the Collective, by,
13 *inter alia*, failing to compensate Plaintiffs and the Collective for all hours worked and, with respect
14 to such hours, failing to pay the legally mandated overtime premium for such work and/or minimum
15 wage. Defendant has also violated the FLSA by failing to keep required, accurate records of all
16 hours worked by Plaintiffs and the Collective. 29 U.S.C. § 211(c).

17 80. Plaintiffs and the Collective are victims of uniform and company-wide compensation
18 policies. These uniform policies, in violation of the FLSA, have been applied to current and former
19 non-exempt, hourly Safety Attendants and Safety Foremen of Defendant, working throughout the
20 United States.

21 81. Plaintiffs and the Collective are entitled to damages equal to the mandated pay,
22 including minimum wage, straight time, and overtime premium pay within the three years
23 preceding the filing of the complaint, plus periods of equitable tolling, because Defendant has acted
24 willfully and knew or showed reckless disregard for whether the alleged conduct was prohibited by
25 the FLSA.

26 82. Defendant has acted neither in good faith nor with reasonable grounds to believe that
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1 its actions and omissions were not a violation of the FLSA, and as a result thereof, Plaintiffs and
2 the Collective are entitled to recover an award of liquidated damages in an amount equal to the
3 amount of unpaid overtime pay and/or prejudgment interest at the applicable rate. 29 U.S.C. §
4 216(b).

5 83. As a result of the aforesaid violations of the FLSA's provisions, pay, including
6 minimum wage, straight time, and overtime compensation, has been unlawfully withheld by
7 Defendant from Plaintiffs and the Collective. Accordingly, Defendant is liable for unpaid wages,
8 together with an amount equal as liquidated damages, attorneys' fees, and costs of this action.

9 84. Wherefore, Plaintiffs and the Collective request relief as hereinafter provided.

10 **SECOND CAUSE OF ACTION**
11 **Failure to Pay for All Hours Worked Pursuant to Labor Code § 204 - For Training**
12 **in California**

13 85. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
14 herein.

15 86. This claim is brought by Plaintiff Jones on behalf of the California Training Class
16 against CertifiedSafety.

17 87. This claim is brought by Plaintiff Knight on behalf of the California Training Class
18 against CertifiedSafety.

19 88. This claim is brought by Plaintiff Crummie on behalf of the California Training Class
20 against CertifiedSafety.

21 89. Defendant willfully engaged in and continue to engage in a policy and practice of not
22 compensating Plaintiffs and putative Class members for all hours worked or spent under its control.

23 90. Defendant requires Plaintiffs and the putative California Training Class members to
24 attend pre-assignment training sessions in California. These trainings are completely locally in
25 California prior to the dispatch of Plaintiffs and the putative California Training Class members to
26 refinery locations throughout the United States for assignments. Defendant requires Plaintiffs and
27 the putative California Training Class members to complete these trainings in order to accept the
28 applicable job assignments, and the training are required for each job assignment.

1 commit, the acts alleged herein knowingly and willfully, and in conscious disregard of the
2 Plaintiffs' and the putative California Training Class members' rights. Plaintiffs and the putative
3 California Training Class are thus entitled to recover nominal, actual, and compensatory damages,
4 plus interest, attorneys' fees, expenses, and costs of suit.

5 98. As a proximate result of the aforementioned violations, Plaintiffs and the putative
6 Class have been damaged in an amount according to proof at time of trial.

7 99. Wherefore, Plaintiffs and the putative Class request relief as hereinafter provided.

8 **THIRD CAUSE OF ACTION**

9 **Failure to Pay Minimum Wages Pursuant to California Labor Code §§ 1182.11, 1182.12,
10 1194, 1197, and 1197.1 - For Training in California**

11 100. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
12 herein.

13 101. This claim is brought by Plaintiff Jones on behalf of the California Training Class
14 against CertifiedSafety.

15 102. This claim is brought by Plaintiff Knight on behalf of the California Training Class
16 against CertifiedSafety.

17 103. This claim is brought by Plaintiff Crummie on behalf of the California Training Class
18 against CertifiedSafety.

19 104. During the applicable statutory period, California Labor Code §§1182.11, 1182.12
20 and 1197, and the Minimum Wage Order were in full force and effect and require that Defendant's
21 hourly employees receive the minimum wage for all hours worked irrespective of whether
22 nominally paid on a piece rate, or any other bases, at the rate of ten dollars and fifty cents (\$10.50)
per hour commencing January 1, 2017.

23 105. "Hours worked" is the time during which an employee is subject to the control of an
24 employer, and includes all the time the employee is suffered or permitted to work, whether or not
25 required to do so.

26 106. California Labor Code §1194 states:
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1 Notwithstanding any agreement to work for a lesser wage, any
2 employee receiving less than the legal minimum wage or the legal
3 overtime compensation applicable to the employee is entitled to
recover in a civil action the unpaid balance of the full amount of this
minimum wage or overtime compensation, including interest thereon,
reasonable attorney's fees, and costs of suit.

4 107. Labor Code §1194.2 provides that, in any action under Section 1194 to recover wages
5 because of the payment of a wage less than minimum wage fixed by an order of the commission,
6 an employee shall be entitled to recover liquidated damages in an amount equal to the wages
7 unlawfully unpaid and interest thereon.

8 108. Defendant has maintained policies and procedures which have created a working
9 environment where hourly employees are routinely compensated at a rate that is less than the
10 statutory minimum wage. Plaintiffs and the putative California Training Class members are
11 required to attend pre-assignment training but are not provided as compensation for any of the time
12 that they spend in this training.

13 109. As a direct and proximate result of the unlawful acts and/or omissions of Defendant,
14 Plaintiffs and putative California Training Class members have been deprived of minimum wages
15 in an amount to be determined at trial, and are entitled to a recovery of such amount, plus liquidated
16 damages, plus interest thereon, attorneys' fees, and costs of suit pursuant to Labor Code §§ 1194,
17 1194.2 and 1197.1.

18 110. Wherefore, Plaintiffs and the putative Class request relief as hereinafter provided.

19 **FOURTH CAUSE OF ACTION**
20 **Failure to Reimburse for Necessary Business Expenditures Pursuant to Labor Code § 2802 -**
For Training in California

21 111. Plaintiffs re-allege and incorporates the foregoing paragraphs as though fully set forth
22 herein.

23 112. This claim is brought by Plaintiff Jones on behalf of the California Training Class
24 against CertifiedSafety.

25 113. This claim is brought by Plaintiff Knight on behalf of the California Training Class
26 against CertifiedSafety.

27 114. This claim is brought by Plaintiff Crummie on behalf of the California Training Class

1 against CertifiedSafety.

2 115. Defendant does not reimburse Plaintiffs and putative Class members for necessary
3 business expenditures.

4 116. Labor Code § 2802 provides, in relevant part:

5 An employer shall indemnify his or her employee for all necessary
6 expenditures or losses incurred by the employee in direct consequence
7 of the discharge of his or her duties, or of his or her obedience to the
8 directions of the employer, even though unlawful, unless the
9 employee, at the time of obeying the directions, believed them to be
unlawful. ... For the purposes of this section, the term “necessary
expenditures or losses” shall include all reasonable costs, including,
but not limited to, attorney’s fees incurred by the employee enforcing
the rights granted by this section.

10 117. Defendant regularly requires Plaintiffs and putative California Training Class
11 members to pay out-of-pocket expenses for transportation and food when traveling to pre-
12 assignment training sessions in California. Defendant does not reimburse Plaintiffs for travel
13 expenses.

14 118. Defendant is liable to Plaintiffs and the putative California Training Class members
15 for the unreimbursed expenses and civil penalties, with interest thereon. Furthermore, Plaintiffs
16 are entitled to an award of attorneys’ fees and costs as set forth below.

17 119. Wherefore, Plaintiffs and the putative Class request relief as hereinafter provided.

18 **FIFTH CAUSE OF ACTION**
19 **Failure to Provide Accurate Itemized Wage Statements Pursuant to Labor Code § 226 - For**
20 **Training in California**

21 120. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
22 herein.

23 121. This claim is brought by Plaintiff Jones on behalf of the California Training Class
24 against CertifiedSafety.

25 122. This claim is brought by Plaintiff Knight on behalf of the California Training Class
26 against CertifiedSafety.

27 123. This claim is brought by Plaintiff Crummie on behalf of the California Training Class
28 against CertifiedSafety.

1 124. Defendant does not provide Plaintiffs and putative California Training Class
2 members with accurate itemized wage statements as required by California law.

3 125. Labor Code § 226(a) provides:

4 Every employer shall, semimonthly or at the time of each payment of
5 wages, furnish each of his or her employees, either as a detachable
6 part of the check, draft, or voucher paying the employee's wages, or
7 separately when wages are paid by personal check or cash, an accurate
8 itemized statement in writing showing (1) gross wages earned, (2)
9 total hours worked by the employee, except for any employee whose
10 compensation is solely based on a salary and who is exempt from
11 payment of overtime under subdivision (a) of Section 515 or any
12 applicable order of the Industrial Welfare Commission, (3) the
13 number of piece-rate units earned and any applicable piece rate if the
14 employee is paid on a piece-rate basis, (4) all deductions, provided
15 that all deductions made on written orders of the employee may be
16 aggregated and shown as one item, (5) net wages earned, (6) the
17 inclusive dates of the period for which the employee is paid, (7) the
18 name of the employee and his or her social security number, (8) the
19 name and address of the legal entity that is the employer, and (9) all
20 applicable hourly rates in effect during the pay period and the
21 corresponding number of hours worked at each hourly rate by the
22 employee. The deductions made from payments of wages shall be
23 recorded in ink or other indelible form, properly dated, showing the
24 month, day, and year, and a copy of the statement or a record of the
25 deductions shall be kept on file by the employer for at least four years
26 at the place of employment or at a central location within the State of
27 California.

17 126. The IWC Wage Orders also establishes this requirement. (See IWC Wage Order 16-
18 2001(6).)

19 127. Labor Code § 226(e) provides:

20 An employee suffering injury as a result of a knowing and intentional
21 failure by an employer to comply with subdivision (a) is entitled to
22 recover the greater of all actual damages or fifty dollars (\$50) for the
23 initial pay period in which a violation occurs and one hundred dollars
24 (\$100) per employee for each violation in a subsequent pay period,
25 not exceeding an aggregate penalty of four thousand dollars (\$4,000),
26 and is entitled to an award of costs and reasonable attorney's fees.

24 Plaintiffs seek to recover actual damages, costs and attorneys' fees under this section.

25 128. Defendant does not provide timely, accurate itemized wage statements to Plaintiffs
26 and putative California Training Class members in accordance with Labor Code § 226(a) and the
27 IWC Wage Orders. As a result of the unpaid time for pre-assignment training, the wage statements

1 Defendant provides its employees, including Plaintiffs and putative California Training Class
2 members, do not accurately reflect the actual hours worked, actual gross wages earned, or actual
3 net wages earned.

4 129. Defendant is liable to Plaintiffs and the putative California Training Class alleged
5 herein for the amounts described above in addition to the civil penalties set forth below, with
6 interest thereon. Furthermore, Plaintiffs are entitled to an award of attorneys' fees and costs as set
7 forth below, pursuant to Labor Code § 226(e).

8 130. Wherefore, Plaintiff and the putative Class request relief as hereinafter provided.

9 **SIXTH CAUSE OF ACTION**
10 **Waiting Time Penalties Pursuant to Labor Code §§ 201-203 - For Training in California**

11 131. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
12 herein.

13 132. This claim is brought by Plaintiff Jones on behalf of the California Training Class
14 against CertifiedSafety.

15 133. This claim is brought by Plaintiff Knight on behalf of the California Training Class
16 against CertifiedSafety.

17 134. This claim is brought by Plaintiff Crummie on behalf of the California Training Class
18 against CertifiedSafety.

19 135. Defendant does not provide Plaintiffs and putative California Training Class
20 members with their wages when due under California law after their employment with Defendant
21 ends.

22 136. Labor Code § 201 provides:

23 If an employer discharges an employee, the wages earned and unpaid
24 at the time of discharge are due and payable immediately.

25 137. Labor Code § 202 provides:

26 If an employee not having a written contract for a definite period quits
27 his or her employment, his or her wages shall become due and payable
not later than 72 hours thereafter, unless the employee has given 72

1 hours previous notice of his or her intention to quit, in which case the
employee is entitled to his or her wages at the time of quitting.

2 138. Labor Code § 203 provides, in relevant part:

3 If an employer willfully fails to pay, without abatement or reduction,
4 in accordance with Sections 201, 201.5, 202, and 205.5, any wages of
5 an employee who is discharged or who quits, the wages of the
6 employee shall continue as a penalty from the due date thereof at the
same rate until paid or until an action therefor is commenced; but the
wages shall not continue for more than 30 days.

7 139. Plaintiffs and putative California Training Class members left their employment with
8 Defendant during the statutory period, at which time Defendant owed them unpaid wages. These
9 earned, but unpaid, wages derive from time spent working for the benefit of Defendant, which went
10 unrecorded and/or uncompensated.

11 140. Defendant willfully refuses to pay putative Class members all the wages that are due
12 and owing to them, in the form of uncompensated off-the-clock time, minimum wage, and
13 reimbursement for necessary business expenditures, upon the end of their employment as a result
14 of Defendant's willful failure to provide Plaintiffs and the putative California Training Class
15 members with payment for all hours worked and reimbursement for travel for the required pre-
16 assignment training in California. As a result of Defendant's actions, Plaintiffs and putative Class
17 members have suffered and continue to suffer substantial losses, including lost earnings, and
18 interest.

19 141. Defendant's willful failure to pay Plaintiffs and putative California Training Class
20 members the wages due and owing them constitutes a violation of Labor Code §§ 201-202. As a
21 result, Defendant is liable to Plaintiffs and putative California Training Class members for all
22 penalties owing pursuant to Labor Code §§ 201-203.

23 142. In addition, Labor Code § 203 provides that an employee's wages will continue as a
24 penalty up to thirty days from the time the wages were due. Therefore, the Plaintiffs and putative
25 California Training Class members are entitled to penalties pursuant to Labor Code § 203, plus
26 interest.

27 143. Wherefore, Plaintiffs and the Class request relief as hereinafter provided.

SEVENTH CAUSE OF ACTION

Failure to Pay for All Hours Worked Pursuant to Labor Code § 204 - For Work at Refineries in California

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144. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

145. This claim is brought by Plaintiff Jones on behalf of the California Certified Safety Class.

146. This claim is brought by Plaintiff Crummie on behalf of the California Certified Safety Class.

147. Defendant willfully engaged in and continue to engage in a policy and practice of not compensating Plaintiffs and putative Class members for all hours worked or spent in its control while working at refineries in California.

148. Defendant regularly schedules Plaintiffs and the putative Class members to work twelve-hour shifts. However, Defendant intentionally and willfully requires Plaintiffs and the putative Class members to complete additional work off-the-clock, in excess of twelve hours per day. For example, Defendant instructs Safety Attendants to clock in only after they have donned personal protection equipment and to clock out before taking off their personal protection equipment. Defendant does not compensate Plaintiffs and Class members for this time. Moreover, Defendant deducts thirty minutes of work for a meal period. However, Plaintiffs and putative Class members routinely work through this meal period and are not compensated for that work. Additionally, Defendant requires Plaintiffs and the putative Class members to attend training sessions, not including pre-assignment training, which often involve lengthy travel to the training site, without compensation for the time spent in trainings or traveling to the trainings. As a result, Defendant fails to pay Plaintiffs and the putative Class members for all hours worked and fail to track their actual hours worked.

149. Labor Code § 1194(a) provides as follows:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this

1 minimum wage or overtime compensation, including interest thereon,
2 reasonable attorneys' fees, and costs of suit.

3 150. Labor Code § 200(a) defines wages as "all amounts for labor performed by
4 employees of every description, whether the amount is fixed or ascertained by the standard of time,
5 task, piece, commission basis, or other method of calculation."

6 151. Labor Code § 1198 makes it unlawful for employers to employ employees under
7 conditions that violate the Wage Orders.

8 152. IWC Wage Order 16-2001(2)(J) defines hours worked as "the time during which an
9 employee is subject to the control of an employer, and includes all the time the employee is suffered
10 or permitted to work, whether or not required to do so."

11 153. Defendant requires Plaintiffs and the Classes to work off-the-clock without
12 compensation. In other words, Plaintiffs and the Class are forced to perform work for the benefit
13 of Defendant without compensation.

14 154. In violation of California law, Defendant knowingly and willfully refuses to perform
15 their obligations to provide Plaintiffs and the putative Classes with compensation for all time
16 worked. Defendant regularly fails to track the time they actually worked or to compensate them
17 for hours worked. Therefore, Defendant committed, and continue to commit, the acts alleged herein
18 knowingly and willfully, and in conscious disregard of the Plaintiffs' and the putative Class
19 members' rights. Plaintiffs and the putative Classes are thus entitled to recover nominal, actual,
20 and compensatory damages, plus interest, attorneys' fees, expenses, and costs of suit.

21 155. As a proximate result of the aforementioned violations, Plaintiffs and the putative
22 Classes have been damaged in an amount according to proof at time of trial.

23 156. Wherefore, Plaintiffs and the putative Classes request relief as hereinafter provided.

24 **EIGHTH CAUSE OF ACTION**

25 **Failure to Pay Minimum Wages Pursuant to California Labor Code §§ 1182.11, 1182.12,
26 1194, 1197, and 1197.1 - For Work at Refineries in California**

27 157. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
28 herein.

1 165. As a direct and proximate result of the unlawful acts and/or omissions of Defendant,
2 Plaintiffs and putative Class members have been deprived of minimum wages in an amount to be
3 determined at trial, and are entitled to a recovery of such amount, plus liquidated damages, plus
4 interest thereon, attorneys' fees, and costs of suit pursuant to Labor Code §§ 1194, 1194.2 and
5 1197.1.

6 166. Wherefore, Plaintiffs and the putative Classes request relief as hereinafter provided.

7 **NINTH CAUSE OF ACTION**
8 **Failure to Pay Overtime Wages Pursuant to Labor Code § 510 - For Work at Refineries in**
9 **California**

10 167. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
11 herein.

12 168. This claim is brought by Plaintiff Jones on behalf of the California CertifiedSafety
13 Class.

14 169. This claim is brought by Plaintiff Crummie on behalf of the California
15 CertifiedSafety Class.

16 170. Defendant does not compensate Plaintiffs and putative Class members with the
17 appropriate overtime rate, including time and a half and double time, as required by California law,
18 for their work at refineries in California. For example, Defendant does not consider bonuses when
19 determining what the overtime and double time rates should be for Plaintiff and putative Class
20 members.

21 171. Labor Code § 510 provides as follows:

22 Eight hours of labor constitutes a day's work. Any work in excess of
23 eight hours in one workday and any work in excess of 40 hours in any
24 one workweek and the first eight hours worked on the seventh day of
25 work in any one workweek shall be compensated at the rate of no less
26 than one and one-half times the regular rate of pay for an employee.
27 Any work in excess of 12 hours in one day shall be compensated at
28 the rate of no less than twice the regular rate of pay for an employee.
In addition, any work in excess of eight hours on any seventh day of
a workweek shall be compensated at the rate of no less than twice the
regular rate of pay of an employee. Nothing in this section requires
an employer to combine more than one rate of overtime compensation
in order to calculate the amount to be paid to an employee for any hour
of overtime work.

1 172. The IWC Wage Order 16-2001(3)(A)(1) states:

2 The following overtime provisions are applicable to employees 18
3 years of age or over and to employees 16 or 17 years of age who are
4 not required by law to attend school and are not otherwise prohibited
5 by law from engaging in the subject work. Such employees shall not
6 be employed more than eight (8) hours in any workday or more than
7 40 hours in any workweek unless the employee receives one and one-
8 half (1 ½) times such employee's regular rate of pay for all hours
9 worked over 40 hours in the workweek. Eight (8) hours of labor
10 constitutes a day's work. Employment beyond eight (8) hours in any
11 workday or more than six (6) days in any workweek is permissible
provided the employee is compensated for such overtime at not less
than: . . . One and one-half (1 ½) times the employee's regular rate of
pay for all hours worked in excess of eight (8) hours up to and
including 12 hours in any workday, and for the first eight (8) hours
worked on the seventh (7th) consecutive day of work in a workweek;
and . . . [d]ouble the employee's regular rate of pay for all hours
worked in excess of 12 hours in any workday and for all hours worked
in excess of eight (8) hours on the seventh (7th) consecutive day of
work in a workweek.

12 173. Labor Code § 1194(a) provides as follows:

13 Notwithstanding any agreement to work for a lesser wage, any
14 employee receiving less than the legal minimum wage or the legal
15 overtime compensation applicable to the employee is entitled to
16 recover in a civil action the unpaid balance of the full amount of this
minimum wage or overtime compensation, including interest thereon,
reasonable attorneys' fees, and costs of suit.

17 174. Labor Code § 200 defines wages as "all amounts for labor performed by employees
18 of every description, whether the amount is fixed or ascertained by the standard of time, task, piece,
19 commission basis or other method of calculation." All such wages are subject to California's
20 overtime requirements, including those set forth above.

21 175. Defendant regularly requires Plaintiffs and putative Class members to work in excess
22 of eight hours per day and forty hours per week, but do not compensate them at an overtime rate
23 for this work. Furthermore, Defendant regularly does not compensate Plaintiffs and the putative
24 Class members at a double time rate for hours worked in excess of twelve hours each day or after
25 eight hours on the seventh consecutive day of work.

26 176. Plaintiffs and putative Class members work overtime hours for Defendant without
27 being paid overtime premiums in violation of the Labor Code, applicable IWC Wage Orders, and

1 other applicable law.

2 177. Defendant knowingly and willfully refuses to perform its obligation to compensate
3 Plaintiffs and the putative Class members for all premium wages for overtime work. As a proximate
4 result of the aforementioned violations, Defendant has damaged Plaintiffs and the putative Class
5 members in amounts to be determined according to proof at time of trial.

6 178. Defendant is liable to Plaintiffs and the Classes alleged herein for the unpaid overtime
7 and civil penalties, with interest thereon. Furthermore, Plaintiffs are entitled to an award of
8 attorneys' fees and costs as set forth below.

9 179. Wherefore, Plaintiffs and the Classes request relief as hereinafter provided.

10 **TENTH CAUSE OF ACTION**
11 **Failure to Authorize and Permit and/or Make Available Meal and Rest Periods**
12 **Pursuant to Labor Code §§ 226.7 and 512 - For Work at Refineries in California**

13 180. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
14 herein.

15 181. This claim is brought by Plaintiff Jones on behalf of the California CertifiedSafety
16 Class.

17 182. This claim is brought by Plaintiff Crummie on behalf of the California
18 CertifiedSafety Class.

19 183. Defendant routinely does not make meal periods available to Plaintiffs and putative
20 Class members working at refineries in California. Despite long work days regularly lasting in
21 excess of twelve hours, Plaintiffs and putative Class members are often unable to take a meal break,
22 are often prevented from timely taking a meal break, and are frequently interrupted during their
23 meal breaks. When Plaintiffs and putative Class members work more than ten hours in a day,
24 Defendant often does not make a second meal period available to them.

25 184. Plaintiffs and putative Class members are not paid one hour of premium pay for the
26 missed breaks. Rather, Defendant deducts thirty minutes of pay on a daily basis for meal periods,
27 even though Plaintiffs and putative Class members are routinely denied compliant meal periods.

28 185. Similar to meal periods, Defendant regularly fails to make rest periods available to

1 Plaintiffs and putative Class members. Plaintiffs' and putative Class members' schedules regularly
2 prevent them from taking rest periods throughout the day. When available, if ever, they are often
3 not compliant. Instead, they are generally untimely or short. Plaintiffs and putative Class members
4 do not receive premium pay for their missed breaks as required by California law.

5 186. Labor Code §§ 226.7 and 512 and the applicable Wage Orders require Defendant to
6 authorize and permit meal and rest periods to their employees. Labor Code §§ 226.7 and 512 and
7 the Wage Orders prohibit employers from employing an employee for more than five hours without
8 a meal period of not less than thirty minutes, and from employing an employee more than ten hours
9 per day without providing the employee with a second meal period of not less than thirty minutes.
10 Labor Code § 226.7 and the applicable Wage Orders also require employers to authorize and permit
11 employees to take ten minutes of net rest time per four hours or major fraction thereof of work, and
12 to pay employees their full wages during those rest periods. Unless the employee is relieved of all
13 duty during the thirty-minute meal period and ten-minute rest period, the employee is considered
14 "on duty" and the meal or rest period is counted as time worked under the applicable Wage Orders.

15 187. Under Labor Code § 226.7(b) and the applicable Wage Orders, an employer who fails
16 to authorize, permit, and/or make available a required meal period must, as compensation, pay the
17 employee one hour of pay at the employee's regular rate of compensation for each workday that
18 the meal period was not authorized and permitted. Similarly, an employer must pay an employee
19 denied a required rest period one hour of pay at the employee's regular rate of compensation for
20 each workday that the rest period was not authorized and permitted and/or not made available.

21 188. Despite these requirements, Defendant knowingly and willfully refuses to perform
22 its obligations to authorize and permit and/or make available to Plaintiffs and the Classes the ability
23 to take the off-duty meal and rest periods to which they were entitled. Defendant fails to pay
24 Plaintiffs and the Classes one hour of pay for each off-duty meal and/or rest periods that they are
25 denied. Defendant's conduct described herein violates Labor Code §§ 226.7 and 512. Therefore,
26 pursuant to Labor Code § 226.7(b), Plaintiffs and the putative Classes are entitled to compensation
27 for the failure to authorize and permit and/or make available meal and rest periods, plus interest,

1 attorneys' fees, expenses and costs of suit.

2 189. As a proximate result of the aforementioned violations, Plaintiffs and the putative
3 Classes have been damaged in an amount according to proof at time of trial.

4 190. Wherefore, Plaintiffs and the putative Classes request relief as hereinafter provided.

5 **ELEVENTH CAUSE OF ACTION**
6 **Failure to Reimburse for Necessary Business Expenditures Pursuant to Labor Code § 2802 -
For Work at Refineries in California**

7 191. Plaintiffs re-allege and incorporates the foregoing paragraphs as though fully set forth
8 herein.

9 192. This claim is brought by Plaintiff Jones on behalf of the California CertifiedSafety
10 Class.

11 193. This claim is brought by Plaintiff Crummie on behalf of the California
12 CertifiedSafety Class.

13 194. Defendant does not reimburse Plaintiffs and putative Class members for necessary
14 business expenditures incurred while working at refineries in California.

15 195. Labor Code § 2802 provides, in relevant part:

16 An employer shall indemnify his or her employee for all necessary
17 expenditures or losses incurred by the employee in direct consequence
18 of the discharge of his or her duties, or of his or her obedience to the
19 directions of the employer, even though unlawful, unless the
20 employee, at the time of obeying the directions, believed them to be
unlawful. ... For the purposes of this section, the term "necessary
expenditures or losses" shall include all reasonable costs, including,
but not limited to, attorney's fees incurred by the employee enforcing
the rights granted by this section.

21 196. Defendant regularly requires Plaintiffs and putative Class members to pay out-of-
22 pocket expenses for transportation, lodging, and food when traveling to assigned work sites.
23 Defendant often promises to reimburse Plaintiffs for these per diems and travel expenses, but often
24 fail to do so. Additionally, Defendant attempts to have Plaintiffs and putative Class members
25 illegally waive their right to reimbursement for travel expenses. Even when Defendant reimburses
26 Plaintiffs and Class members for these expenses, the amount reimbursed are often insufficient to
27 cover the total cost of travel.

1 197. Furthermore, Defendant regularly requires Plaintiffs and putative Class members to
2 pay out-of-pocket expenses for personal protective equipment, including but not limited to boots,
3 and for the cost of washing this equipment. Defendant does not reimburse Plaintiffs and the
4 putative Class members for these expenditures.

5 198. Defendant is liable to Plaintiffs and the putative Class members for the unreimbursed
6 expenses and civil penalties, with interest thereon. Furthermore, Plaintiffs are entitled to an award
7 of attorneys' fees and costs as set forth below.

8 199. Wherefore, Plaintiffs and the putative Classes request relief as hereinafter provided.

9 **TWELFTH CAUSE OF ACTION**
10 **Failure to Provide Accurate Itemized Wage Statements Pursuant to Labor Code § 226 - For**
11 **Work at Refineries in California**

12 200. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
13 herein.

14 201. This claim is brought by Plaintiff Jones on behalf of the California CertifiedSafety
15 Class.

16 202. This claim is brought by Plaintiff Crummie on behalf of the California
17 CertifiedSafety Class.

18 203. Defendant does not provide Plaintiffs and putative Class members with accurate
19 itemized wage statements as required by California law for their work at refineries in California.

20 204. Labor Code § 226(a) provides:

21 Every employer shall, semimonthly or at the time of each payment of
22 wages, furnish each of his or her employees, either as a detachable
23 part of the check, draft, or voucher paying the employee's wages, or
24 separately when wages are paid by personal check or cash, an accurate
25 itemized statement in writing showing (1) gross wages earned, (2)
26 total hours worked by the employee, except for any employee whose
27 compensation is solely based on a salary and who is exempt from
28 payment of overtime under subdivision (a) of Section 515 or any
applicable order of the Industrial Welfare Commission, (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

1 name and address of the legal entity that is the employer, and (9) all
2 applicable hourly rates in effect during the pay period and the
3 corresponding number of hours worked at each hourly rate by the
4 employee. The deductions made from payments of wages shall be
5 recorded in ink or other indelible form, properly dated, showing the
6 month, day, and year, and a copy of the statement or a record of the
7 deductions shall be kept on file by the employer for at least four years
8 at the place of employment or at a central location within the State of
9 California.

10 205. The IWC Wage Orders also establishes this requirement. (See IWC Wage Order 16-
11 2001(6).)

12 206. Labor Code § 226(e) provides:

13 An employee suffering injury as a result of a knowing and intentional
14 failure by an employer to comply with subdivision (a) is entitled to
15 recover the greater of all actual damages or fifty dollars (\$50) for the
16 initial pay period in which a violation occurs and one hundred dollars
17 (\$100) per employee for each violation in a subsequent pay period,
18 not exceeding an aggregate penalty of four thousand dollars (\$4,000),
19 and is entitled to an award of costs and reasonable attorney's fees.

20 Plaintiffs seek to recover actual damages, costs and attorneys' fees under this section.

21 207. Defendant does not provide timely, accurate itemized wage statements to Plaintiffs
22 and putative Class members in accordance with Labor Code § 226(a) and the IWC Wage Orders.
23 The wage statements Defendant provides its employees, including Plaintiffs and putative Class
24 members, do not accurately reflect the actual hours worked, actual gross wages earned, or actual
25 net wages earned.

26 208. Defendant is liable to Plaintiffs and the putative Classes alleged herein for the
27 amounts described above in addition to the civil penalties set forth below, with interest thereon.
28 Furthermore, Plaintiffs are entitled to an award of attorneys' fees and costs as set forth below,
pursuant to Labor Code § 226(e).

29 209. Wherefore, Plaintiff and the putative Classes request relief as hereinafter provided.

30 **THIRTEENTH CAUSE OF ACTION**
31 **Waiting Time Penalties Pursuant to Labor Code §§ 201-203 - For Work at Refineries**
32 **in California**

33 210. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
34 herein.

1 211. This claim is brought by Plaintiff Jones on behalf of the California CertifiedSafety
2 Class.

3 212. This claim is brought by Plaintiff Crummie on behalf of the California
4 CertifiedSafety Class.

5 213. Defendant does not provide Plaintiffs and putative Class members with their wages
6 for their work at refineries in California when due under California law after their employment with
7 Defendant ends.

8 214. Labor Code § 201 provides:

9 If an employer discharges an employee, the wages earned and unpaid
10 at the time of discharge are due and payable immediately.

11 215. Labor Code § 202 provides:

12 If an employee not having a written contract for a definite period quits
13 his or her employment, his or her wages shall become due and payable
14 not later than 72 hours thereafter, unless the employee has given 72
15 hours previous notice of his or her intention to quit, in which case the
16 employee is entitled to his or her wages at the time of quitting.

17 216. Labor Code § 203 provides, in relevant part:

18 If an employer willfully fails to pay, without abatement or reduction,
19 in accordance with Sections 201, 201.5, 202, and 205.5, any wages of
20 an employee who is discharged or who quits, the wages of the
21 employee shall continue as a penalty from the due date thereof at the
22 same rate until paid or until an action therefor is commenced; but the
23 wages shall not continue for more than 30 days.

24 217. Plaintiffs and putative Class members left their employment with Defendant during
25 the statutory period, at which time Defendant owed them unpaid wages. These earned, but unpaid,
26 wages derive from time spent working for the benefit of Defendant, which went unrecorded and/or
27 uncompensated.

28 218. Defendant willfully refuses to pay putative Class members all the wages that are due
and owing to them, in the form of uncompensated off-the-clock time, minimum wage, overtime,
meal and rest period premium pay, and reimbursement for necessary business expenditures upon
the end of their employment as a result of Defendant's willful failure to provide Plaintiffs and the
putative Class members with payment for all hours worked, overtime, and meal and rest breaks.

1 As a result of Defendant’s actions, Plaintiffs and putative Class members have suffered and
2 continue to suffer substantial losses, including lost earnings, and interest.

3 219. Defendant’s willful failure to pay Plaintiffs and putative Class members the wages
4 due and owing them constitutes a violation of Labor Code §§ 201-202. As a result, Defendant is
5 liable to Plaintiffs and proposed Class members for all penalties owing pursuant to Labor Code §§
6 201-203.

7 220. In addition, Labor Code § 203 provides that an employee’s wages will continue as a
8 penalty up to thirty days from the time the wages were due. Therefore, the Plaintiffs and putative
9 Class members are entitled to penalties pursuant to Labor Code § 203, plus interest.

10 221. Wherefore, Plaintiffs and the Classes request relief as hereinafter provided.

11 **FOURTEENTH CAUSE OF ACTION**
12 **Failure to Pay Minimum Wage (WMWA 49.46.090, RCW 49.12.150) - For Work at Refineries**
13 **in Washington**

14 222. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
15 herein.

16 223. This claim is brought by Plaintiff Jones on behalf of the Washington CertifiedSafety
17 Class.

18 224. This claim is brought by Plaintiff Knight on behalf of the Washington CertifiedSafety
19 Class.

20 225. As detailed above, Defendant fails to compensate Plaintiffs and putative Class
21 members with at least the minimum wage for all hours worked.

22 226. During the applicable statutory period, WMWA 49.46.020(1)(a) was in full force and
23 effect and required that Plaintiffs and putative Class members receive the minimum wage for all
24 hours worked at the rate of nine dollars thirty-two cents (\$9.32) per hour commencing January 1,
25 2014, at the rate of nine dollars forty-seven cents (\$9.47) per hour commencing July 1, 2015, and
26 at the rate of eleven dollars (\$11.00) per hour commencing January 1, 2017.

27 227. Washington Administrative Code (“WAC”) 296-126-002 defines hours worked as
28 “all hours during which the employee is authorized or required by the employer to be on duty on

1 the employer's premises or at a prescribed work place.

2 228. WMWA 49.46.090(1) provides, in relevant part:

3 Any employer who pays any employee less than the amounts to which
4 such employee is entitled under or by virtue of this chapter, shall be
5 liable to such employee affected for the full amount due to such
6 employee under this chapter, less any amount actually paid to such
7 employee by the employer, and for costs and such reasonable
8 attorney's fees as may be allowed by the court.

9 229. RCW 49.12.150 also provides:

10 If any employee shall receive less than the legal minimum wage,
11 except as hereinbefore provided in RCW 49.12.110, said employee
12 shall be entitled to recover in a civil action the full amount of the legal
13 minimum wage as herein provided for, together with costs and
14 attorney's fees to be fixed by the court, notwithstanding any agreement
15 to work for such lesser wage. In such action, however, the employer
16 shall be credited with any wages which have been paid upon account.

17 230. RCW 49.48.030 allows the court to grant reasonable attorney's fees "[i]n any action
18 in which any person is successful in recovering judgment for wages or salary owed" to him or her.

19 231. Because of Defendant's policies and practices with regard to compensating Plaintiffs
20 and putative Class members, Defendant has failed to pay minimum wages as required by law.
21 Plaintiffs and putative Class members frequently perform work for which they are compensated
22 below the statutory minimum.

23 232. Plaintiffs and putative Class members have been deprived of minimum wages in an
24 amount to be proven at trial, and are entitled to a recovery of such amount, plus interest thereon,
25 attorneys' fees, and costs of suit pursuant to RCW 49.46.090 and 49.48.030.

26 233. Wherefore, Plaintiffs and the putative Classes request relief as hereinafter provided.

27 **FIFTEENTH CAUSE OF ACTION**
28 **Failure to Pay Overtime Wages (WMWA 49.46.130) - For Work at Refineries in Washington**

29 234. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
30 herein.

31 235. This claim is brought by Plaintiff Jones on behalf of the Washington CertifiedSafety
32 Class.

1 health.”

2 255. Pursuant to RCW 49.12.005(5) and WAC 296-126-002(9), conditions of labor
3 “means and includes the conditions of rest and meal periods” for employees.

4 256. WAC 296-126-092 provides:

5 (1) Employees shall be allowed a meal period of at least thirty minutes
6 which commences no less than two hours nor more than five hours
7 from the beginning of the shift. Meal periods shall be on the
8 employer's time when the employee is required by the employer to
9 remain on duty on the premises or at a prescribed work site in the
10 interest of the employer.

11 (2) No employee shall be required to work more than five consecutive
12 hours without a meal period.

13 (3) Employees working three or more hours longer than a normal
14 work day shall be allowed at least one thirty-minute meal period prior
15 to or during the overtime period.

16 (4) Employees shall be allowed a rest period of not less than ten
17 minutes, on the employer's time, for each four hours of working time.
18 Rest periods shall be scheduled as near as possible to the midpoint of
19 the work period. No employee shall be required to work more than
20 three hours without a rest period.

21 (5) Where the nature of the work allows employees to take intermittent
22 rest periods equivalent to ten minutes for each 4 hours worked,
23 scheduled rest periods are not required.

24 257. In the present case, Plaintiffs and putative Class members are routinely required to
25 work through rest and meal periods. When Plaintiffs and putative Class members do receive a meal
26 or rest break, these breaks generally are on duty.

27 258. By actions alleged above, Defendant has violated WAC 296-126-092. This, in turn,
28 constitutes a violation of RCW 49.12.010 and RCW 49.12.020.

29 259. RCW 49.12.170 provides, in relevant part:

30 Any employer employing any person for whom a minimum wage or
31 standards, conditions, and hours of labor have been specified, at less
32 than said minimum wage, or under standards, or conditions of labor
33 or at hours of labor prohibited by the rules and regulations of the
34 director ... shall be deemed guilty of a misdemeanor, and shall, upon
35 conviction thereof, be punished by a fine of not less than twenty-five
36 dollars nor more than one thousand dollars.

37 260. As a result of these unlawful acts, Plaintiffs and the Classes have been deprived of
38 compensation in amounts to be determined at trial, and Plaintiffs and the Classes are entitled to the
39 recovery of such damages, including interest thereon, civil penalties, and attorneys' fees and costs

1 under RCW 49.48.030 and 49.12.170.

2 261. Wherefore, Plaintiffs and the Classes request relief as hereinafter provided.

3 **SEVENTEENTH CAUSE OF ACTION**
4 **Unpaid Wages on Termination (RCW 49.48) - For Work at Refineries in Washington**

5 262. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
6 herein.

7 263. This claim is brought by Plaintiff Jones on behalf of the Washington CertifiedSafety
8 Class.

9 264. This claim is brought by Plaintiff Knight on behalf of the Washington CertifiedSafety
10 Class.

11 265. As detailed above, Defendant fails to compensate Plaintiffs and putative Class
12 members with at least the minimum wage for all hours worked.

13 266. Under RCW 49.46.090, employers must pay employees all wages to which they are
14 entitled under the Washington Minimum Wage Act. If the employer fails to do so, RCW 49.46.090
15 requires that the employer pay the employees the full amount of the statutory minimum wage rate
16 less any amount actually paid to the employee.

17 267. By the actions alleged above, Defendant has violated the provisions of RCW
18 49.46.090 and the WMWA by failing to pay any wage whatsoever to Plaintiffs and putative Class
19 members when they work off the clock, miss all or part of their breaks, and are deprived of correct
20 overtime compensation.

21 268. As a result of the unlawful acts of Defendant, Plaintiffs and the putative Classes have
22 been deprived of regular and overtime compensation in an amount to be determined at trial.
23 Pursuant to RCW 49.46.090 and 49.48.030, Plaintiffs and the Classes are entitled to recover
24 attorneys' fees and costs of suit.

25 269. Wherefore, Plaintiffs and the putative Classes request relief as hereinafter provided.
26
27

EIGHTEENTH CAUSE OF ACTION

Willful Refusal to Pay Wages (RCW 49.52.050) - For Work at Refineries in Washington

270. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

271. This claim is brought by Plaintiff Jones on behalf of the Washington Certified Safety Class.

272. This claim is brought by Plaintiff Knight on behalf of the Washington Certified Safety Class.

273. As detailed above, Defendant fails to compensate Plaintiffs and putative Class members with at least the minimum wage for all hours worked.

274. RCW 49.52.050(2) provides that any employer or agent of any employer who “[w]illfully and with intent to deprive the employee of any party of his wages, shall pay any employee a lower wage than the wage such employer is obligated to pay such employee by any statute, ordinance, or contract” shall be guilty of a misdemeanor.

275. RCW 49.52.070 provides that any employer who violates the foregoing statute shall be liable in a civil action for twice the amount of wages withheld, together with costs of suit and reasonable attorney fees.

276. An employer’s nonpayment of wages is willful and made with intent “when it is the result of knowing and intentional action and not the result of a bona fide dispute as to the obligation of payment.” *Wingert v. Yellow Freight Sys., Inc.* 146 Wash.2d 841, 849 (2002), quoting *Chelan Cnty. Deputy Sheriffs’ Ass’n v. Chelan County*, 109 Wash.2d 282, 300 (1987).

277. In the present case, Defendant intentionally fails to pay all wages owed to Plaintiffs and putative Class members, including minimum wage and overtime wages, by requiring Plaintiffs and putative Class members to work during meal and rest periods. Defendant knew or should have known that its employment policies violate Washington law, and its failure to pay wages owed to Plaintiff and putative Class members was “willful” under RCW 49.52.050(2).

278. Wherefore, Plaintiffs and the Classes request relief as hereinafter provided.

NINETEENTH CAUSE OF ACTION

Violation of Washington’s Consumer Protection Act (RCW 19.86) - For Work at Refineries in Washington

279. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

280. This claim is brought by Plaintiff Jones on behalf of the Washington Certified Safety Class.

281. This claim is brought by Plaintiff Knight on behalf of the Washington Certified Safety Class.

282. As detailed above, Defendant fails to compensate Plaintiffs and putative Class members with at least the minimum wage for all hours worked.

283. Defendant has engaged in unfair or deceptive acts or practices when they: (i) fail to pay Plaintiffs and Class members wages for off-the-clock work; (ii) prevent Plaintiffs and Class members from taking rest and meal breaks; (iii) fail to pay Plaintiffs and Class members for the periods during which their rest and meal breaks were interrupted; (iv) fail to pay Plaintiffs and Class members for overtime worked; (v) violate RCW 49.46.30; (vi) violate WAC 296-126-023; and (vii) violate WAC 296-126-092 and 296-125-0287.

284. Defendant’s unfair or deceptive acts or practices repeatedly occur in Defendant’s trade or business, and are capable of deceiving a substantial portion of the public.

285. As a direct and proximate cause of Defendant’s unfair or deceptive acts or practices, Plaintiffs and the Class have suffered actual damages, in that Plaintiffs and Class members are wrongfully denied the payment of wages, are forced to work off the clock, and are prevented from taking rest and meal breaks.

286. As a result of Defendant’s unfair and deceptive practices, Plaintiffs and the Classes are entitled, pursuant to RCW 19.86.090, to recover treble damages, reasonable attorneys’ fees, and costs.

287. Wherefore, Plaintiffs and the putative Classes request relief as hereinafter provided.

TWENTIETH CAUSE OF ACTION

Failure to Pay Minimum Wage (ORC 4111.13) - For Work at Refineries in Ohio

288. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

289. This claim is brought by Plaintiff Turner on behalf of the Ohio CertifiedSafety class.

290. As detailed above, Defendants fail to compensate Plaintiffs and putative Class members with at least the minimum wage for all hours worked.

291. The Ohio Constitution Art. II, Section 34, provides as follows:

Except as provided in this section, every employer shall pay their employees a wage rate of not less than six dollars and eighty-five cents per hour beginning January 1, 2007. On the thirtieth day of each September, beginning in 2007, this state minimum wage rate shall be increased effective the first day of the following January by the rate of inflation for the twelve month period prior to that September according to the consumer price index or its successor index for all urban wage earners and clerical workers for all items as calculated by the federal government rounded to the nearest five cents. Employees under the age of sixteen and employees of businesses with annual gross receipts of two hundred fifty thousand dollars or less for the preceding calendar year shall be paid a wage rate of not less than that established under the federal Fair Labor Standards Act or its successor law. This gross revenue figure shall be increased each year beginning January 1, 2008 by the change in the consumer price index or its successor index in the same manner as the required annual adjustment in the minimum wage rate set forth above rounded to the nearest one thousand dollars.

292. During the applicable statutory period, the Ohio Constitution Art. II, Section 34a, and the ORC 4111.13 were in full force and effect, requiring that Defendants' hourly employees receive the minimum wage for all hours worked at the rate of seven dollars and ninety five cents (\$7.95) per hour commencing January 1, 2014; eight dollars ten cents (\$8.10) per hour commencing January 1, 2015; eight dollars fifteen cents (\$8.15) per hour commencing January 1, 2017; eight dollars thirty cents (\$8.30) commencing January 1, 2018; and eight dollars fifty-five cents (\$8.55) commencing January 1, 2019.

293. ORC 4111.01(A) provides as follows:

“Wage” means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the deductions, charges, or allowances permitted by rules of the director of commerce under section 4111.05 of the Revised Code. “Wage” includes an employee's commissions of which the employee's employer

1 keeps a record, but does not include gratuities, except as provided by rules issued
2 under section 4111.05 of the Revised Code. “Wage” also includes the reasonable cost
3 to the employer of furnishing to an employee board, lodging, or other facilities, if the
4 board, lodging, or other facilities are customarily furnished by the employer to the
5 employer's employees. The cost of board, lodging, or other facilities shall not be
6 included as part of wage to the extent excluded therefrom under the terms of a bona
7 fide collective bargaining agreement applicable to the employee.

8 294. ORC 4111.13(C) provides that “[n]o employers shall pay or agree to pay wages at a
9 rate less than the rate applicable under sections 4111.01 to 4111.17 . . . Each week or portion thereof
10 for which the employer pays any employee less than the rate applicable under those sections
11 constitutes a separate offense as to each employer.”

12 295. ORC 4111.13(D) provides that each day of violation of sections 4111.01 to 4111.17
13 of the ORC constitutes a separate offense.

14 296. ORC 4111.14(J) and the Ohio Constitution Art. II, Section 34a provide that damages
15 “shall be calculated as an additional two times the amount of the back wages” in accordance with
16 Section 34a of Article II of the Ohio Constitution.

17 297. Pursuant to ORC 4111.14(K) and the Ohio Constitution Art. II, Section 34a, Plaintiffs
18 and the putative Class members are entitled to recover unpaid minimum wages for three years prior
19 to the filing of this suit, as well as for reasonable attorneys’ fees and costs for their minimum wage
20 claims.

21 298. Because of Defendant’s policies and practices with regard to compensating Plaintiffs
22 and putative Class members, Defendant has willfully failed to pay minimum wages as required by
23 law. The off-the-clock work—including but not limited to travel time, donning and doffing time,
24 and work during meal periods that have been deducted from the nominal hours worked—
25 contributes to the actual hours worked by Plaintiffs and putative Class members. Moreover,
26 Defendant regularly requires Plaintiffs and putative Class members to pay out-of-pocket for work
27 expenses including personal protective equipment and transportation, lodging, and food when
28 traveling to assigned work sites, and fails to fully reimburse Plaintiffs and putative Class
members for these expenses, if at all. When the remuneration received by Plaintiffs and putative Class
members is reduced by unreimbursed out-of-pocket expenses, and then divided by the actual hours

1 worked, Plaintiffs and putative Class members are frequently compensated below the statutory
2 minimum.

3 299. Plaintiffs and putative Class members have been deprived of minimum wages in an
4 amount to be proven at trial, and are entitled to a recovery of such amount, plus statutory damages,
5 interest, attorneys' fees, and costs of suit pursuant to ORC 4111.14(J)-(K).

6 300. Wherefore, Plaintiffs and the putative Classes request relief as hereinafter provided.

7 **TWENTY-FIRST CAUSE OF ACTION**
8 **Failure to Pay Overtime Wages (ORC 4111.03) - For Work at Refineries in Ohio**

9 301. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
10 herein.

11 302. This claim is brought by Plaintiff Turner on behalf of the Ohio CertifiedSafety class.

12 303. Defendant does not compensate Plaintiffs and putative Class members with the
13 appropriate overtime rate for work performed in excess of forty hours per week.

14 304. ORC 4111.03 provides that work performed in excess of forty hours in a given week
15 must be compensated at a rate of no less than one and one-half times the regular rate of pay for an
16 employee.

17 305. ORC 4111.10(A) provides as follows:

18 (A) Any employer who pays any employee less than wages to which the employee is
19 entitled under section 4111.03 of the Revised Code, is liable to the employee affected
20 for the full amount of the overtime wage rate, less any amount actually paid to the
21 employee by the employer, and for costs and reasonable attorney's fees as may be
22 allowed by the court. Any agreement between the employee and the employer to
23 work for less than the overtime wage rate is no defense to an action.

24 306. ORC 4111.14(J) provides that "damages shall be calculated as an additional two
25 times the amount of the back wages" in accordance with Section 34a of Article II of the Ohio
26 Constitution.

27 307. Pursuant to ORC 4111.14(K), Plaintiffs and the putative Class members are entitled
28 to recover unpaid overtime wages for three years prior to the filing of the Ohio claims, as well as
for reasonable attorneys' fees and costs for their overtime claims.

1 308. ORC 4111.14(L) provides as follows:

2 In accordance with Section 34a of Article II, Ohio Constitution, there shall be no
3 exhaustion requirement, no procedural, pleading, or burden of proof requirements
4 beyond those that apply generally to civil suits in order to maintain such action and
5 no liability for costs or attorney's fees on an employee except upon a finding that such
6 action was frivolous in accordance with the same standards that apply generally in
7 civil suits.

8 309. Because of Defendant's policies and practices with regard to compensating Plaintiffs
9 and putative Class members, Defendant has willfully failed to pay overtime wages as required by
10 law. The off-the-clock work—including but not limited to travel time, donning and doffing time,
11 and work during meal periods that have been deducted from the nominal hours worked—
12 contributes to the actual hours worked by Plaintiffs and putative Class members. The actual hours
13 worked exceed the threshold for overtime pay. Moreover, Defendant regularly requires Plaintiffs
14 and putative Class members to pay out-of-pocket for work expenses including personal protective
15 equipment and transportation, lodging, and food when traveling to assigned work sites, and fails to
16 fully reimburse Plaintiff and putative Class members for these expenses, if at all. When the
17 remuneration received by Plaintiff and putative Class members is reduced by unreimbursed out-of-
18 pocket expenses, and then divided by the actual hours worked, Defendant fails to compensate
19 Plaintiffs and putative Class members at the appropriate overtime rate for all of these hours.

20 310. Plaintiffs and putative Class members have been deprived of overtime wages in an
21 amount to be proven at trial, and are entitled to a recovery of such amount, plus statutory damages,
22 interest thereon, attorneys' fees, and costs of suit pursuant to ORC 4111.10(A), 4111.14(J)-(K).

23 311. Wherefore, Plaintiffs and the putative Classes request relief as hereinafter provided.

24 **TWENTY-SECOND CAUSE OF ACTION**
25 **Failure to Pay Minimum Wage (Alaska Stat. Ann. § 23.10.065) - For Work at Refineries in**
26 **Alaska**

27 312. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
28 forth herein.

313. This claim is brought by Plaintiff Azevedo on behalf of the Alaska CertifiedSafety
Class.

1 314. As detailed above, Defendant has failed to compensate Plaintiffs and putative Class
2 members with at least the minimum wage for all hours worked.

3 315. During the applicable statutory period, the Alaska Wage and Hour Act (“AWHA”),
4 Alaska Stat. Ann. § 23.10.050, *et seq.*, was in full force and effect and required that Plaintiffs and
5 putative Class members receive the Alaska minimum wage for all hours worked. Under Alaska
6 Stat. Ann. § 23.10.065, every employer must pay each employee a minimum wage of \$8.75 per
7 hour beginning January 1, 2015, \$9.75 per hour beginning January 1, 2016, \$9.80 per hour
8 beginning January 1, 2017, \$9.84 beginning January 1, 2018, and \$9.89 beginning January 1,
9 2019. Alaska’s minimum-wage rate is adjusted for inflation beginning January 1, 2017.

10 316. Plaintiffs and putative Class members were directed to work by Defendant and, in
11 fact, did work but were not compensated at least at the Alaska minimum wage rate for all time
12 worked. Pursuant to Alaska Stat. Ann. § 23.10.065(a), Plaintiffs and putative Class members are
13 entitled to be compensated at least at the applicable Alaska-mandated minimum wage rate for all
14 time worked.

15 317. Under Alaska Admin. Code tit. 8, § 15.105, Alaska has adopted the definition of
16 hours worked under the federal FLSA regulations (29 C.F.R. 785.11-785.25) for purposes of
17 minimum wage and overtime requirements.

18 318. Under 29 C.F.R. 785.11, all time in which an employee is suffered or permitted to
19 work is work time. Time spent in meetings and trainings must be counted as working time unless
20 all of the following are true: (1) attendance is outside of the employee’s regular working hours;
21 (2) attendance is in fact voluntary; (3) the course, lecture, or meeting is not directly related to the
22 employee’s job; and (4) the employee does not perform any productive work during such
23 attendance. 29 C.F.R.785.27. Under both the FLSA and Alaska regulations, on-call time in which
24 an employee is required to remain on call on the employer’s premises or other place of
25 employment or so close to them that the time cannot be used effectively for the employee’s own
26 purposes is considered hours worked. 29 C.F.R.785.17; Alaska Admin. Code tit. 8, § 15.910(9).
27 Under Alaska regulation, standby or waiting time in which an employee is required to be at or

1 near the place of employment and is required to wait for work or an assignment, whether or not
2 because of shutdown or repair, and during which the time cannot be used effectively for the
3 employee's own purpose, is considered hours worked. Alaska Admin. Code tit. 8, § 15.910(13).

4 319. 29 C.F.R.785.19 provides as follows:

5 Bona fide meal periods are not worktime. Bona fide meal periods do not include
6 coffee breaks or time for snacks. These are rest periods. The employee must be
7 completely relieved from duty for the purposes of eating regular meals. Ordinarily
8 30 minutes or more is long enough for a bona fide meal period. A shorter period
9 may be long enough under special conditions. The employee is not relieved if he is
10 required to perform any duties, whether active or inactive, while eating. For
11 example, an office employee who is required to eat at his desk or a factory worker
12 who is required to be at his machine is working while eating.

13 320. Under Alaska Admin. Code tit. 8, § 15.165, an employer may not require an
14 employee to purchase a uniform or equipment if the uniform or equipment is required by federal,
15 state, or local safety or health codes. An employer also may not require an employee to purchase
16 a uniform or equipment if the nature of the employer's business requires the use of either, and if
17 the uniform or equipment is distinctive and advertises or is associated with the products or
18 services of the employer or cannot be worn or used during normal social activities of the
19 employee.

20 321. Pursuant to Alaska Stat. Ann. § 23.10.110(a)-(b), Plaintiffs and the putative Class
21 members are entitled to recover unpaid minimum wages under the AWhA in a civil action.
22 Pursuant to Alaska Stat. Ann. § 23.10.110(a), Plaintiffs and the putative Class members are
23 additionally entitled to recover an amount equal to the unpaid minimum wages as liquidated
24 damages.

25 322. Alaska Stat. Ann. § 23.10.110(c) provides that in any action for minimum wages
26 under the AWhA, the court shall order an employer who is found to have violated Alaska
27 minimum wage requirements to pay costs of the action and reasonable attorneys' fees.

28 323. Because of Defendant's policies and practices with regard to compensating
Plaintiffs and putative Class members, Defendant has willfully failed to pay minimum wages as

1 required by law. The off-the-clock work—including but not limited to travel time, donning and
2 doffing time, and work during meal periods that have been deducted from the nominal hours
3 worked—contributes to the actual hours worked by Plaintiffs and putative Class members.
4 Moreover, Defendant regularly requires Plaintiffs and putative Class members to pay out-of-
5 pocket for work expenses including personal protective equipment and transportation, lodging,
6 and food when traveling to assigned work sites, and fail to fully reimburse Plaintiffs and putative
7 Class members for these expenses, if at all. When the remuneration received by Plaintiffs and
8 putative Class members is reduced by unreimbursed out-of-pocket expenses, and then divided by
9 the actual hours worked, Plaintiffs and putative Class members are frequently compensated below
10 the statutory minimum.

11 324. Plaintiffs and putative Class members have been deprived of minimum wages in an
12 amount to be proven at trial, and are entitled to a recovery of such amount, plus statutory and
13 liquidated damages, interest thereon, attorneys' fees, and costs of suit pursuant to Alaska Stat.
14 Ann. § 23.10.110, and the related Alaska Administrative Code rules.

15 325. Wherefore, Plaintiffs and the putative Classes request relief as hereinafter provided

16 **TWENTY-THIRD CAUSE OF ACTION**
17 **Failure to Pay Overtime (Alaska Stat. Ann. § 23.10.060) - For Work at Refineries in Alaska**

18 326. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
19 herein.

20 327. This claim is brought by Plaintiff Azevedo on behalf of the Alaska CertifiedSafety
21 Class.

22 328. Defendant does not compensate Plaintiffs and putative Class members with the
23 appropriate overtime rate for work performed in excess of eight (8) hours per day or forty (40)
24 hours per week.

25 329. The AWAHA, Alaska Stat. Ann. § 23.10.060, requires employers to pay their
26 employees for hours worked in excess of eight (8) hours per day or forty (40) hours per week in a
27 work week at a rate no less than one and one-half times their regular hourly rate of pay.

1 330. Under Alaska Admin. Code tit. 8, § 15.105, Alaska has adopted the definition of
2 hours worked under the federal FLSA regulations (29 C.F.R. 785.11-785.25) for purposes of
3 minimum wage and overtime requirements.

4 331. Under 29 C.F.R. 785.11, all time in which an employee is suffered or permitted to
5 work is work time. Time spent in meetings and trainings must be counted as working time unless
6 all of the following are true: (1) attendance is outside of the employee's regular working hours;
7 (2) attendance is in fact voluntary; (3) the course, lecture, or meeting is not directly related to the
8 employee's job; and (4) the employee does not perform any productive work during such
9 attendance. 29 C.F.R.785.27. Under both the FLSA and Alaska regulations, on-call time in which
10 an employee is required to remain on call on the employer's premises or other place of
11 employment or so close to them that the time cannot be used effectively for the employee's own
12 purposes is considered hours worked. 29 C.F.R.785.17; Alaska Admin. Code tit. 8, § 15.910(9).
13 Under Alaska regulation, standby or waiting time in which an employee is required to be at or
14 near the place of employment and is required to wait for work or an assignment, whether or not
15 because of shutdown or repair, and during which the time cannot be used effectively for the
16 employee's own purpose, is considered hours worked. Alaska Admin. Code tit. 8, § 15.910(13).

17 332. 29 C.F.R.785.19 provides as follows:

18 Bona fide meal periods are not worktime. Bona fide meal periods do not include
19 coffee breaks or time for snacks. These are rest periods. The employee must be
20 completely relieved from duty for the purposes of eating regular meals. Ordinarily
21 30 minutes or more is long enough for a bona fide meal period. A shorter period
22 may be long enough under special conditions. The employee is not relieved if he is
23 required to perform any duties, whether active or inactive, while eating. For
24 example, an office employee who is required to eat at his desk or a factory worker
25 who is required to be at his machine is working while eating.

26 333. Alaska Admin. Code tit. 8, § 15.100(c) provides as follows:

27 When computing an employee's hours for the purpose of determining overtime, the
28 employer shall count all hours the employee worked during that week including
29 periods of "on call" and "standby or waiting time" required for the convenience of
30 the employer which were a necessary part of the employee's performance of the

1 employment. However, if the employee is completely relieved from all duties for 20
2 minutes or more during which the employee may use the time effectively for the
employee's own purposes, then those periods need not be counted.

3 334. Alaska Admin. Code tit. 8, § 15.100(a) defines the regular rate of pay for overtime
4 calculations as "an hourly rate figured on a weekly basis. An employee need not actually be hired
5 at an hourly rate. The employee may be paid by piece-rate, salary, commission, or any other basis
6 agreeable to the employer and employee. However, the applicable compensation basis must be
7 converted to an hourly rate when determining the regular rate for computing overtime
8 compensation. Payment on a salary basis does not eliminate overtime pay requirements."

9 335. Pursuant to Alaska Admin. Code tit. 8, § 15.100(e)(4):

10 if there is not a written employment contract or if the daily rate provides
11 compensation for a variable number of hours worked, the overtime must be
12 calculated as follows:

13 (A) each week, the employer must calculate the straight time rate of pay by
14 dividing the total amount paid at the daily rate by the total number of hours
worked in the week; and

15 (B) the employer must pay one-half of the straight time rate established
16 under (1) of this subsection for each overtime hour worked in the week to
17 bring the employee's wages up to one and one-half times the regular rate for
18 hours worked over eight hours in a day and over 40 straight time hours in a
week; this calculation must be performed separately each week.

19 336. Under Alaska Admin. Code tit. 8, § 15.165, an employer may not require an
20 employee to purchase a uniform or equipment if the uniform or equipment is required by the
21 federal, state, or local safety or health codes. An employer also may not require an employee to
22 purchase a uniform or equipment if the nature of the employer's business requires the use of
23 either, and if the uniform or equipment is distinctive and advertises or is associated with the
24 products or services of the employer or cannot be worn or used during normal social activities of
25 the employee.

26 337. Pursuant to Alaska Stat. Ann. § 23.10.110(a)-(b), Plaintiffs and the putative Class
27 members are entitled to recover unpaid overtime wages under the AWA in a civil action.

1 Pursuant to Alaska. Stat. Ann. § 23.10.110(a), Plaintiffs and the putative Class members are
2 additionally entitled to recover an amount equal to the unpaid overtime wages as liquidated
3 damages.

4 338. Because of Defendant’s policies and practices with regard to compensating
5 Plaintiffs and putative Class members, Defendant has willfully failed to pay overtime wages as
6 required by law. The off-the-clock work—including but not limited to travel time, donning and
7 doffing time, and work during meal periods that have been deducted from the nominal hours
8 worked—contributes to the actual hours worked by Plaintiffs and putative Class members. The
9 actual hours worked exceed the threshold for overtime pay. Moreover, Defendant regularly
10 requires Plaintiffs and putative Class members to pay out-of-pocket for work expenses including
11 personal protective equipment and transportation, lodging, and food when traveling to assigned
12 work sites, and fails to fully reimburse Plaintiffs and putative Class members for these expenses,
13 if at all. When the remuneration received by Plaintiffs and putative Class members is reduced by
14 unreimbursed out-of-pocket expenses, and then divided by the actual hours worked, Defendant
15 fails to compensate Plaintiffs and putative Class members at the appropriate overtime rate for all
16 of these hours.

17 339. Plaintiffs and putative Class members have been deprived of overtime wages in an
18 amount to be proven at trial, and are entitled to a recovery of such amount, plus statutory and
19 liquidated damages, interest thereon, attorneys’ fees, and costs of suit pursuant to Alaska. Stat.
20 Ann. § 23.10.110, and the related Alaska Administrative Code rules.

21 340. Wherefore, Plaintiffs and the putative Classes request relief as hereinafter provided.

22 **TWENTY-FOURTH CAUSE OF ACTION**
23 **Unpaid Wages on Termination (Alaska. Stat. Ann. § 23.05.140) - For Work at Refineries in**
24 **Alaska**

24 341. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
25 herein.

26 342. This claim is brought by Plaintiff Azevedo on behalf of the Alaska CertifiedSafety
27 Class.

1 343. Alaska law requires prompt payment of all wages to employees for all hours
2 worked at the end of employment.

3 344. Alaska Stat. Ann. § 23.05.140(b) provides as follows:

4 If the employment is terminated, all wages, salaries or other compensation for labor
5 or services become due immediately and shall be paid within the time required by
6 this subsection at the place where the employee is usually paid or at a location
7 agreed upon by the employer and employee. If the employment is terminated by the
8 employer, regardless of the cause for the termination, payment is due within three
9 working days after the termination. If the employment is terminated by the
10 employee, payment is due at the next regular payday that is at least three days after
11 the employer received notice of the employee's termination of services.

12 345. Alaska Stat. Ann. § 23.05.140(d) provides as follows:

13 If an employer violates (b) of this section by failing to pay within the time required
14 by that subsection, the employer may be required to pay the employee a penalty in
15 the amount of the employee's regular wage, salary or other compensation from the
16 time of demand to the time of payment, or for 90 working days, whichever is the
17 lesser amount.

18 346. Pursuant to Alaska Stat. Ann. §§ 23.05.140, 23.10.110, and/or Alaska Civil Rule
19 82, Plaintiffs and the putative Class members are entitled to recover unpaid wages, penalties
20 thereon, and attorneys' fees and costs in a civil action.

21 347. By the actions alleged above, Defendant has violated the provisions of Alaska Stat.
22 Ann. § 23.05.140 by failing to pay any wage whatsoever to Plaintiffs and putative Class members
23 when they work off the clock, miss all or part of their breaks, and are deprived of correct overtime
24 compensation. Moreover, Defendant regularly requires Plaintiffs and putative Class members to
25 pay out-of-pocket for work expenses including personal protective equipment and transportation,
26 lodging, and food when traveling to assigned work sites, and fails to fully reimburse Plaintiffs and
27 putative Class members for these expenses, if at all. These amounts remain due upon the
28 separation of employment. Therefore, Defendant committed, and continues to commit, the acts
alleged herein knowingly and willfully, and in conscious disregard of the Plaintiffs' and the
putative Class members' rights. Plaintiffs and the putative Classes are thus entitled to the unpaid

1 wages and penalties thereon, plus interest, attorneys' fees, expenses, and costs of suit, pursuant
2 Alaska Stat. Ann. §§ 23.05.140, 23.10.110, and/or Alaska Civil Rule 82.

3 348. As a proximate result of the aforementioned violations, Plaintiffs and the putative
4 Classes have been damaged in an amount according to proof at time of trial.

5 349. Wherefore, Plaintiffs and the putative Classes request relief as hereinafter provided

6 **TWENTY-FIFTH CAUSE OF ACTION**
7 **Violation of California Business and Professions Code § 17200, *et seq.***

8 350. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
9 herein.

10 351. This claim is brought by Plaintiff Jones on behalf of the California Training Class
11 and the California CertifiedSafety Class.

12 352. This claim is brought by Plaintiff Knight on behalf of the California Training Class.

13 353. California Business and Professions Code § 17200, *et seq.* (the "UCL") prohibits
14 unfair competition in the form of any unlawful, unfair, or fraudulent business acts or practices.

15 354. Business and Professions Code § 17204 allows a person injured by the unfair business
16 acts or practices to prosecute a civil action for violation of the UCL.

17 355. Labor Code § 90.5(a) states it is the public policy of California to vigorously enforce
18 minimum labor standards in order to ensure employees are not required to work under substandard
19 and unlawful conditions, and to protect employers who comply with the law from those who attempt
20 to gain competitive advantage at the expense of their workers by failing to comply with minimum
21 labor standards.

22 356. CertifiedSafety has committed acts of unfair competition as defined by the UCL, by
23 engaging in the unlawful, unfair, and fraudulent business acts and practices described in this
24 Complaint, including, but not limited to:

- 25 a. violations of Labor Code § 1194 and IWC Wage Order 16-2001 pertaining to
26 payment of wages, including minimum wage, for all hours worked;
27 b. violations of Labor Code § 510 and Wage Order 16-2001 pertaining to overtime;

- 1 c. violations of Labor Code §§ 226.7 and 512 and Wage Order 16-2001 pertaining
- 2 to meal and rest breaks;
- 3 d. violations of Labor Code § 226 regarding accurate, timely itemized wage
- 4 statements;
- 5 e. violations of Labor Code § 2802 regarding indemnification for necessary
- 6 business expenditures; and
- 7 f. violations of Labor Code §§ 201-203.

8 357. The violations of these laws and regulations, as well as of the fundamental California
9 public policies protecting wages, serve as unlawful predicate acts and practices for purposes of
10 Business and Professions Code §§ 17200 *et seq.*

11 358. The acts and practices described above constitute unfair, unlawful, and fraudulent
12 business practices, and unfair competition, within the meaning of Business and Professions Code
13 §§ 17200 *et seq.* Among other things, the acts and practices have taken from Plaintiffs and the
14 Class wages rightfully earned by them, while enabling Defendant to gain an unfair competitive
15 advantage over law-abiding employers and competitors.

16 359. Business and Professions Code § 17203 provides that a court may make such orders
17 or judgments as may be necessary to prevent the use or employment by any person of any practice
18 which constitutes unfair competition. Injunctive relief is necessary and appropriate to prevent
19 Defendant from repeating the unlawful, unfair, and fraudulent business acts and practices alleged
20 above.

21 360. As a direct and proximate result of the aforementioned acts and practices, Plaintiffs
22 and the Class members have suffered a loss of money and property, in the form of unpaid wages
23 which are due and payable to them.

24 361. Business and Professions Code § 17203 provides that the Court may restore to any
25 person in interest any money or property which may have been acquired by means of such unfair
26 competition. Plaintiffs and the Classes are entitled to restitution pursuant to Business and
27 Professions Code § 17203 for all wages and payments unlawfully withheld from employees during

1 the four-year period prior to the filing of this Complaint. Plaintiffs' success in this action will
2 enforce important rights affecting the public interest and in that regard Plaintiffs sue on behalf of
3 themselves as well as others similarly situated. Plaintiffs and putative Class members seek and are
4 entitled to unpaid wages, declaratory and injunctive relief, and all other equitable remedies owing
5 to them.

6 362. Plaintiffs herein take upon themselves enforcement of these laws and lawful claims.
7 There is a financial burden involved in pursuing this action, the action is seeking to vindicate a
8 public right, and it would be against the interests of justice to penalize Plaintiffs by forcing them to
9 pay attorneys' fees from the recovery in this action. Attorneys' fees are appropriate pursuant to
10 Code of Civil Procedure §1021.5 and otherwise.

11 363. Wherefore, Plaintiffs and the putative Classes request relief as hereinafter provided.

12 **TWENTY-SIXTH CAUSE OF ACTION**
13 **Penalties Pursuant to § 2699(a) of the Private Attorneys General Act**

14 364. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
15 herein.

16 365. This claim is brought by Plaintiff Jones on behalf of himself and all other current and
17 former hourly employees who worked as Safety Attendants in California against CertifiedSafety.

18 366. This claim is brought by Plaintiff Crummie on behalf of himself and all other current
19 and former hourly employees who worked as Safety Attendants in California against
20 CertifiedSafety.

21 367. Labor Code § 2699(a) provides:

22 Notwithstanding any other provision of law, any provision of this code
23 that provides for a civil penalty to be assessed and collected by the
24 Labor and Workforce Development Agency or any of its departments,
25 divisions, commissions, boards, agencies or employees, for a violation
of this code, may, as an alternative, be recovered through a civil action
brought by an aggrieved employee on behalf of himself or herself and
other current or former employees.

26 368. Labor Code § 203 provides, in relevant part:
27

1 If an employer willfully fails to pay, without abatement or reduction,
2 in accordance with Sections 201, 201.5, 202, and 205.5, any wages of
3 an employee who is discharged or who quits, the wages of the
4 employee shall continue as a penalty from the due date thereof at the
5 same rate until paid or until an action therefore is commenced; but the
6 wages shall not continue for more than 30 days.

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17 369. Labor Code § 226(a) provides:

18 Every employer shall, semimonthly or at the time of each payment of
19 wages, furnish each of his or her employees, either as a detachable
20 part of the check, draft, or voucher paying the employee's wages, or
21 separately when wages are paid by personal check or cash, an accurate
22 itemized statement in writing showing (1) gross wages earned, (2)
23 total hours worked by the employee, except for any employee whose
24 compensation is solely based on a salary and who is exempt from
25 payment of overtime under subdivision (a) of Section 515 or any
26 applicable order of the Industrial Welfare Commission, (3) the
27 number of piece-rate units earned and any applicable piece rate if the
28 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 four years
at the place of employment or at a central location within the State of
California.

370. Labor Code § 551 provides:

Every person employed in any occupation of labor is entitled to one
day's rest therefrom in seven.

371. Labor Code § 552 provides:

No employer of labor shall cause his employees to work more than six
days in seven.

372. Labor Code § 558(a) provides:

(a) Any employer or other person acting on behalf of an employer who
violates, or causes to be violated, a section of this chapter or any
provision regulating hours and days of work in any order of the
Industrial Welfare Commission shall be subject to a civil penalty as
follows:

(1) For any initial violation, fifty dollars (\$50) for each underpaid
employee for each pay period for which the employee was

1 underpaid in addition to an amount sufficient to recover underpaid
2 wages.

3 (2) For each subsequent violation, one hundred dollars (\$100) for
4 each underpaid employee for each pay period for which the
5 employee was underpaid in addition to an amount sufficient to
6 recover underpaid wages.

7 (3) Wages recovered pursuant to this section shall be paid to the
8 affected employee.

9 373. Plaintiffs seek civil penalties pursuant to Labor Code § 2699(a) for each failure by
10 Defendant, as alleged above, to timely pay all wages owed to Plaintiffs and each putative Class
11 member in compliance with Labor Code §§ 201-202 in the amounts established by Labor Code §
12 203. Plaintiffs seek such penalties as an alternative to the penalties available under Labor Code §
13 203, as prayed for herein.

14 374. Plaintiffs also seek civil penalties pursuant to Labor Code § 2699(a) for each failure
15 by Defendant, alleged above, to provide Plaintiffs and each Class member an accurate, itemized
16 wage statement in compliance with Labor Code § 226(a) in the amounts established by Labor Code
17 § 226(e). Plaintiffs seek such penalties as an alternative to the penalties available under Labor Code
18 § 226(e), as prayed for herein.

19 375. Plaintiffs also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure
20 by Defendant, alleged above, to provide Plaintiff and each Class member compliant meal and rest
21 periods in compliance with Labor Code § 512.

22 376. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each violation
23 of Labor Code § 510, alleged above, as well as any provision regulating hours and days of work in
24 any order of the IWC.

25 377. Plaintiffs also seek civil penalties pursuant to Labor Code § 2699(a) for each failure
26 by Defendant, alleged above, to provide Plaintiffs and each Class member one day of rest therefrom
27 seven days of work in compliance with Labor Code §§ 551 and 552.

28 378. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiffs provided the Labor and
Workforce Development Agency (“LWDA”) with notice of their intention to file this claim. Sixty-

1 five calendar days have passed without notice from the LWDA. Plaintiffs satisfied the
2 administrative prerequisites to commence this civil action in compliance with § 2699.3(a).

3 379. Plaintiffs seek the aforementioned penalties on behalf of the State, other aggrieved
4 employees, and themselves as set forth in Labor Code § 2699(g)(i).

5 380. Defendant is liable to Plaintiffs, the putative Class members, and the State of
6 California for the civil penalties set forth in this Complaint, with interest thereon. Plaintiffs are also
7 entitled to an award of attorneys' fees and costs as set forth below.

8 381. Wherefore, Plaintiffs and the Classes request relief as hereinafter provided.

9
10 **TWENTY-SEVENTH CAUSE OF ACTION**
Penalties Pursuant to § 2699(f) of the Private Attorneys General Act

11 382. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
12 herein.

13 383. This claim is brought by Plaintiff Jones on behalf of himself and all other current and
14 former hourly employees who worked as Safety Attendants in California against CertifiedSafety.

15 384. This claim is brought by Plaintiff Crummie on behalf of himself and all other current
16 and former hourly employees who worked as Safety Attendants in California against
17 CertifiedSafety.

18 385. Labor Code § 2699(f) provides:

19 For all provisions of this code except those for which a civil penalty
20 is specifically provided, there is established a civil penalty for a
21 violation of these provisions, as follows: . . . (2) If, at the time of the
22 alleged violation, the person employs one or more employees, the civil
23 penalty is one hundred dollars (\$100) for each aggrieved employee
per pay period for the initial violation and two hundred dollars (\$200)
for each aggrieved employee per pay period for each subsequent
violation.

24
25 386. To the extent than any violation alleged herein does not carry penalties under Labor
26 Code § 2699(a), Plaintiffs seek civil penalties pursuant to Labor Code § 2699(f) for Plaintiffs and
27

1 Class members each pay period in which he or she was aggrieved, in the amounts established by
2 Labor Code § 2699(f).

3 387. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiffs have provided the LWDA
4 with notice of their intention to file this claim. Sixty-five calendar days have passed without notice
5 from the LWDA. Plaintiffs satisfied the administrative prerequisites to commence this civil action
6 in compliance with § 2699.3(a).

7 388. Plaintiffs seek the aforementioned penalties on behalf of the State, other aggrieved
8 employees, and themselves as set forth in Labor Code § 2699(g)(i).

9 389. Defendant is liable to Plaintiffs, the putative Class members, and the State of
10 California for the civil penalties set forth in this Complaint, with interest thereon. Plaintiffs are also
11 entitled to an award of attorneys' fees and costs as set forth below.

12 390. Wherefore, Plaintiffs and the Classes request relief as hereinafter provided.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiffs pray for relief as follows:

- 15 a) Damages and restitution according to proof at trial for all unpaid wages and other injuries,
16 as provided by the FLSA, California Labor Code, WMWA, the Ohio Constitution,
17 AWhA, and other laws of the States of California, Washington, Ohio, and Alaska;
- 18 b) For a declaratory judgment that CertifiedSafety has violated the FLSA, California Labor
19 Code, WMWA, the Ohio Constitution, AWhA, the laws of the States of California,
20 Washington, Ohio, and Alaska, and public policy as alleged herein;
- 21 c) For a declaratory judgment that CertifiedSafety has violated the UCL, California
22 Business and Professions Code § 17200 *et seq.*, as a result of the aforementioned
23 violations of the California Labor Code and of California public policy protecting wages;
- 24 d) For preliminary, permanent, and mandatory injunctive relief prohibiting CertifiedSafety,
25 its officers, agents, and all those acting in concert with them from committing in the
26 future those violations of law herein alleged;
- 27 e) For an equitable accounting to identify, locate, and restore to all current and former

1 employees the wages they are due, with interest thereon;

- 2 f) For an order awarding Plaintiffs and the Classes and Collective members compensatory
3 damages, including lost wages, earnings, liquidated damages, and other employee
4 benefits, restitution, recovery of all money, actual damages, and all other sums of money
5 owed to Plaintiffs and members of the Classes, together with interest on these amounts,
6 according to proof;
- 7 g) For an order awarding Plaintiffs, Classes, and members of the Collective civil penalties
8 pursuant to the FLSA, California Labor Code, WMWA, and the laws of the States of
9 California, Washington, Ohio, and Alaska, with interest thereon;
- 10 h) For an award of reasonable attorneys' fees as provided by the FLSA, California Labor
11 Code, California Code of Civil Procedure § 1021.5, WMWA, the Ohio Constitution,
12 AWhA, the laws of the States of California, Washington, Ohio, and Alaska, and/or other
13 applicable law;
- 14 i) For all costs of suit;
- 15 j) For interest on any damages and/or penalties awarded, as provided by applicable law;
16 and
- 17 k) For such other and further relief as this Court deems just and proper.

18
19 Dated: November 22, 2019

Respectfully submitted,

20 /s/ Carolyn H. Cottrell

21 Carolyn H. Cottrell

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DEMAND FOR JURY TRIAL

Plaintiffs hereby demands a jury trial on all claims and issues for which Plaintiffs are entitled to a jury.

Dated: November 22, 2019

Respectfully submitted,

/s/ Carolyn H. Cottrell
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