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11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13 SOUTHERN DIVISION

14 TREVION SHERMAN, MONIQUE
15 CARPENTER, CHRISTOPHER
16 BOOKER, SHELBY VIZIO, KRISTY
17 SLAYDON, JESSLYN WAITER,
18 CARLA LOPEZ, MICHAEL TIIMAN,
19 RICHARD BARBER, JUSTIN
20 WILLIAMS, IVAN URBINA, ALLYSON
21 MOTLEY, JACOB MINYARD,
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24 SANDOVAL, ANDY DIONISIO, BRIAN
25 MENDEZ, STORM CARFANGNIA,
26 SYLVIA BAUTISTA, EDUARDO
27 CASTILLO, DARREN DELIZO, JANET
28 VACA, JANICA LACH, TRAVIS WEBB
and SEAN WAITER, each individually on
their own behalf and on behalf of all others
similarly situated,

Plaintiffs,

v.

AMAZON.COM SERVICES, INC., a
Delaware Corporation; and DOES 1
through 10, inclusive,
Defendant.

CASE NO. 8:19-cv-1329

**DEFENDANT AMAZON.COM
SERVICES, INC.'S NOTICE OF
REMOVAL OF CLASS ACTION**

[Removal from the Superior Court of
California, County of Orange, Case No.
30-2019-01074574-CU-OE-CXC]

Action Filed: June 6, 2019

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1 **TO THE CLERK OF THE CENTRAL DISTRICT OF CALIFORNIA AND TO**
2 **PLAINTIFFS AND THEIR COUNSEL OF RECORD:**

3 **PLEASE TAKE NOTICE THAT** Defendant Amazon.com Services, Inc.¹
4 (“Amazon”) removes the above-entitled action to this Court—from the Superior Court
5 of the State of California, County of Orange—pursuant to 28 U.S.C. § 1332(d)(2) (the
6 Class Action Fairness Act of 2005 (“CAFA”)), and removal jurisdiction under 28
7 U.S.C. §§ 1441(a) and 1446, on the following grounds.

8 **I. PROCEDURAL BACKGROUND**

9 1. On June 6, 2019, Plaintiffs Trevion Sherman, Monique Carpenter,
10 Christopher Booker, Shelby Vizio, Kristy Slaydon, Jesslyn Waiter, Carla Lopez,
11 Michael Tiiman, Richard Barber, Justin Williams, Ivan Urbina, Allyson Motley, Jacob
12 Minyard, Guillermo Martinez, Cory Adams, Russel Crume, Eduardo Sandoval, Andy
13 Dionisio, Brian Mendez, Evan Gonzales, Storm Carfangnia, Sylvia Bautista, Eduardo
14 Castillo, Darren Delizo, Janet Vaca, Janica Lach, Travis Webb, and Sean Waiter filed
15 an unverified putative class action complaint in the Superior Court of the State of
16 California, County of Orange, entitled *Trevion Sherman et al., as individuals on their*
17 *own behalf, and on behalf of all others similarly situated vs. Amazon.com Services,*
18 *Inc., a Delaware corporation; and Does 1-50, inclusive*, Case No. 30-2019-01074574-
19 CU-OE-CXC.²

20 2. On June 7, 2019, Plaintiffs served copies of the Summons, Complaint,
21 Civil Case Cover Sheet, and Notice of Case Assignment on Amazon. Copies of these
22 documents, as well as the Proof of Service filed on June 11, 2019 are attached as
23 Exhibits A through F to the Declaration of Katherine V.A. Smith (“Smith Decl.”) in
24 Support of Defendant’s Notice of Removal.

25
26 ¹ Effective January 1, 2018, Amazon.com Fulfillment Services, Inc. changed its
27 name to Amazon.com Services, Inc. Effective January 1, 2019, Golden State FC
28 LLC merged with Amazon.com Services, Inc. and retained the name Amazon.com
Services, Inc.

² Evan Gonzales is listed as a Plaintiff on page 2 of Plaintiffs’ Complaint but is
not included in the caption and is not discussed anywhere else in the Complaint.
Amazon has no record of ever having employed Darren Delizo.

1 3. In their Complaint, Plaintiffs assert 10 claims on behalf of themselves and
2 members of the following four purported subclasses:

- 3 • **Reporting Time Subclass:** All persons who were employed/hired by
4 Defendant, AMAZON.COM SERVICES, INC. and/or the entity
5 formerly known as GOLDEN STATE FC, LLC in the State of
6 California, and who at any time within four (4) years of the filing of this
7 Complaint worked in Defendant's joint-venture fulfillment centers in
8 the State of California and who, during any given pay period were
9 instructed by Defendant to show up to work on a scheduled date for a
10 scheduled time, but upon reporting for work were either sent home
11 without such scheduled work being furnished, and/or who were
12 furnished less than half of their usual or scheduled work, and were not
13 paid no less than (2) [*sic*] nor more than four (4) hours of their regular
14 rate of pay, at a rate of no less than minimum wage in reporting time
15 pay.

16 Compl. ¶ 62,

- 17 • **Rest Period Subclass:** All persons who were employed/hired by
18 Defendant, AMAZON.COM SERVICES, INC. and/or the entity
19 formerly known as GOLDEN STATE FC, LLC in the State of
20 California, and who at any time within four (4) years of the filing of this
21 Complaint worked in Defendant's joint-venture fulfillment centers in
22 the State of California and who, from four years prior to the filing of this
23 Complaint were/are impeded from taking a rest break, and/or deprived
24 of taking a rest break at the rate of every four hours (or major fraction
25 thereof), and who, as a result of such missed rest breaks has not been
26 compensated in an amount equal to one hour of pay at such individuals'
27 regular hourly rate of pay, during any given pay period during their term
28 of employment.

1 Compl. ¶ 63,

- 2 • **Suitable Resting Facilities Subclass:** All persons who were
3 employed/hired by Defendant, AMAZON.COM SERVICES, INC.
4 and/or the entity formerly known as GOLDEN STATE FC, LLC in the
5 State of California, and who at any time within four (4) years of the
6 filing of this Complaint worked in Defendant's joint-venture fulfillment
7 centers in the State of California and who, from four years prior to the
8 filing of this complaint were/are impeded or deprived of access to and
9 utilization of suitable resting facilities during their rest break periods
10 during any regularly scheduled workday, during their term of
11 employment.

12 Compl. ¶ 64,

- 13 • **Waiting Time Subclass:** All persons who were employed/hired by
14 Defendant, AMAZON.COM SERVICES, INC. and/or the entity
15 formerly known as GOLDEN STATE FC, LLC in the State of
16 California, and who at any time within four (4) years of the filing of this
17 Complaint worked in Defendant's joint-venture fulfillment centers in
18 the State of California and who, from four years prior to the filing of this
19 complaint separate from Defendant's employment, and who Defendant
20 knowingly and willfully failed to pay all wages due, including reporting
21 time wages, within 72 hours of time such employee voluntarily or
22 involuntarily ended their employment with Defendant during the Class
23 Period.

24 Compl. ¶ 65.

25 4- The ten claims alleged are: (1) Failure to Pay Reporting Time Pay in
26 violation of IWC Wage Order No. 9, Section 5; (2) Failure to Timely Pay All Wages
27 Within the Time Specified By Law in violation of Labor Code section 204; (3) Failure
28 to Provide Rest Breaks in violation of IWC Wage Order No. 9-2001; (4) Failure to

1 Provide Suitable Resting Facilities in violation of IWC Wage Order No. 9-2001,
2 section 13(B); (5) Failure to Pay Overtime Wages in violation of Labor Code sections
3 510 and 1198 and IWC Wage Order No. 9-2001; (6) Failure to Pay Wages for Each
4 Hour Worked in violation of Labor Code section 1194; (7) Failure to Provide Accurate
5 Wage Statements in violation of Labor Code section 226; (8) Failure to Maintain
6 Record of Hours Worked in violation of Labor Code section 1174(d); (9) Failure to
7 Timely Pay All Wages Due Upon Termination in violation of Labor Code sections
8 201, 202, and 203; and (10) Unlawful, Unfair, and Fraudulent Business Practices in
9 violation of California Business and Professions Code section 17200 *et seq.*

10 5. Plaintiffs allege numerous purported violations including that they were
11 not “paid reporting time pay [by Amazon] for the days they . . . showed up to work as
12 scheduled, but were not furnished any work” or “not furnished at least half of their
13 scheduled hours,” Compl. ¶ 50; that “Defendant failed and intentionally refused to pay
14 Plaintiffs and the class members all wages they were entitled to, twice monthly,
15 including reporting time pay during each and every pay period of their employment.”
16 Compl. ¶ 82. Plaintiffs further allege that Amazon’s fulfillment centers “prohibit
17 employees from getting an actual rest break, as they are required to trek as long as
18 seven minutes to reach the nearest restroom and then seven minutes back to their work
19 stations” and thus have been purportedly “impeded from and deprived of their proper
20 rest break periods.” Compl. ¶ 52. Plaintiffs allege, “for the same reasons and
21 policies,” Amazon “failed to provide suitable resting facilities” to “use during their rest
22 periods.” Compl. ¶ 53.

23 6. For purposes of this removal only, Amazon assumes Plaintiffs’
24 allegations as true.

25 **II. REMOVAL IS TIMELY**

26 7. Plaintiffs served Amazon on June 7, 2019 through its authorized agent for
27 service. Because this Notice of Removal is filed within 30 days of service of the
28

1 Summons and Complaint, it is timely under 28 U.S.C. §§ 1446(b) and 1453. *See*
2 *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354 (1999).

3 **III. THIS COURT HAS ORIGINAL SUBJECT MATTER JURISDICTION**
4 **UNDER CAFA**

5 8. Plaintiffs bring this action as a putative class action. Compl. ¶ 1.

6 Removal based on CAFA diversity jurisdiction is proper because: (A) the amount
7 placed in controversy by the Complaint exceeds, in the aggregate, \$5 million,
8 exclusive of interest and costs; (B) diversity of citizenship exists between one or more
9 plaintiffs and one or more defendants; and (C) the aggregate number of putative class
10 members is 100 or greater. 28 U.S.C. §§ 1332(d)(2), 1332(d)(5)(B), & 1453.

11 Removal is therefore proper under 28 U.S.C. § 1441(a).

12 9. Amazon denies Plaintiffs' factual allegations and denies that Plaintiffs or
13 the class they purport to represent are entitled to the relief requested.³ However, based
14 on the allegations in the Complaint and the prayer for relief, all requirements for
15 jurisdiction under CAFA have been met. Accordingly, diversity of citizenship exists
16 under CAFA and this Court has original jurisdiction over this action.

17 **A. The Amount in Controversy Exceeds \$5 Million**

18 10. Pursuant to CAFA, the claims of the individual members in a class action
19 are aggregated to determine if the amount in controversy exceeds \$5 million exclusive
20 of interest and costs. 28 U.S.C. § 1332(d)(6).

21
22
23 ³ Amazon denies that liability or damages can be established either as to Plaintiffs or
24 on a class-wide basis. Amazon does not concede, and reserves the right to contest, at
25 the appropriate time, Plaintiffs' allegations that this action may properly proceed as a
26 class action. Amazon does not concede and reserves the right to contest, at the
27 appropriate time, that any of Plaintiffs' allegations constitute a cause of action
28 against it under applicable California law. No statement or reference contained
herein shall constitute an admission of liability or a suggestion that Plaintiffs will or
could actually recover any damages based upon the allegations contained in the
Complaint or otherwise. Amazon's notice seeks only to establish that the amount in
controversy is more likely than not in excess of CAFA's jurisdictional minimum.
"The amount in controversy is simply an estimate of the total amount in dispute, not
a prospective assessment of [Defendant's] liability." *Lewis v. Verizon Commc'ns,*
Inc., 627 F.3d 395, 400 (9th Cir. 2010).

1 11. Where a plaintiff does not expressly plead a specific amount in damages,
2 as is the case here, a defendant seeking to remove under CAFA need only “provide
3 evidence establishing that it is ‘more likely than not’ that the amount in controversy
4 exceeds [the jurisdictional] amount” of \$5 million. *See Guglielmino v. McKee Foods*
5 *Corp.*, 506 F.3d 696, 700 (9th Cir. 2007); *see Singer v. State Farm Mut. Auto. Ins. Co.*,
6 116 F.3d 373, 376 (9th Cir. 1997). A defendant’s burden to establish the amount in
7 controversy is by a preponderance of the evidence. *Dart Cherokee Basin Operating*
8 *Co., LLC v. Owens*, 135 S. Ct. 547, 553–54 (2014); *see also Jordan v. Nationstar*
9 *Mortg., LLC*, 781 F.3d 1178, 1183 (9th Cir. 2015) (citing *Dart Cherokee* and noting
10 there is no anti-removal presumption against CAFA cases). Moreover, a removing
11 party seeking to invoke CAFA jurisdiction “need include only a plausible allegation
12 that the amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee*,
13 135 S. Ct. at 554.

14 12. A removing defendant is “not required to comb through its records to
15 identify and calculate the exact frequency of [alleged] violations.” *Oda, et al. v. Gucci*
16 *Am., Inc.*, No. 2:14-cv-7468-SVW (JPRx), 2015 WL 93335, at *12 (C.D. Cal. Jan. 7,
17 2015). Nor is a removing defendant required to “research, state, [or attempt to] prove
18 the plaintiff’s claims for damages.” *Sanchez v. Russell Sigler, Inc.*, No. CV 15-01350-
19 AB (PLAx), 2015 WL 12765359, at *2 (C.D. Cal. April 28, 2015) (citation omitted).

20 13. Moreover, in assessing whether the amount in controversy requirement
21 has been satisfied, “a court must ‘assume that the allegations of the complaint are true
22 and assume that a jury will return a verdict for the plaintiff on all claims made in the
23 complaint.’” *Campbell v. Vitran Exp., Inc.*, 471 F. App’x 646, 648 (9th Cir. 2012)
24 (quoting *Kenneth Rothschild Tr. v. Morgan Stanley Dean Witter*, 199 F. Supp. 2d 993,
25 1001 (C.D. Cal. 2002)). In other words, the focus of the Court’s inquiry must be on
26 “what amount is put ‘in controversy’ by the plaintiff’s complaint, not what a defendant
27 will actually owe.” *Korn v. Polo Ralph Lauren Corp.*, 536 F. Supp. 2d 1199, 1205
28

1 (E.D. Cal. 2008) (citing *Rippee v. Boston Mkt. Corp.*, 408 F. Supp. 2d 982, 986 (S.D.
2 Cal. 2005)).

3 14. Finally, a plaintiff cannot defeat removal by contending that the damages
4 ultimately recoverable may fall below the \$5 million dollar threshold. *See LaCross v.*
5 *Knight Transportation Inc.*, 775 F.3d 1200, 1203 (9th Cir. 2015) (rejecting plaintiff’s
6 argument for remand based on the contention that the class may not be able to prove
7 all amounts claimed: “Plaintiffs are conflating the amount in controversy with the
8 amount of damages ultimately recoverable.”).

9 15. As discussed more fully below, the amount in controversy here exceeds
10 \$5 million.

11 **1. Plaintiffs’ Request for Waiting Time Penalties Alone Places the**
12 **Amount in Controversy Over \$5 Million**

13 16. Amazon reserves the right to present evidence establishing the amount
14 placed in controversy by each of Plaintiffs’ claims should Plaintiffs challenge whether
15 the jurisdictional amount-in-controversy threshold is satisfied. *See Dart Cherokee*,¹³⁵
16 S. Ct. at 554 (“Evidence establishing the amount is required by § 1446(c)(2)(B) only
17 when the plaintiff contests, or the court questions, the defendant’s allegation [that the
18 amount in controversy exceeds the jurisdictional threshold].”). But for present
19 purposes, it is sufficient to note that Plaintiffs’ claim for waiting time penalties
20 pursuant to Labor Code section 201–203 alone puts more than \$5 million in
21 controversy.

22 17. Plaintiffs allege that putative class members who ended their employment
23 with Amazon during the applicable time period are entitled to recovery of “waiting
24 time penalties” pursuant to Labor Code section 203. Compl. ¶ 65. The statute of
25 limitations for an action under Labor Code Section 203 is three years. Cal. Civ. Proc.
26 Code § 338(a); Cal. Lab. Code § 203(b); *Pineda v. Bank of Am., N.A.*, 241 P.3d 870,
27 876 (2010).

1 18. If an employer fails to pay all wages due an employee at the time of
2 termination, as required by Labor Code section 201, or within 72 hours after
3 resignation, as required by Labor Code section 202, then the wages “shall continue as a
4 penalty from the due date thereof at the same rate until paid or until an action therefore
5 is commenced,” for up to a maximum of 30 calendar days. Cal. Lab. Code § 203. An
6 employer may not be liable for these penalties if a good faith dispute exists as to
7 whether the wages are owed. Further, to be liable for waiting time penalties, an
8 employer’s failure to pay wages within the statutory time frame must be willful. “A
9 willful failure to pay wages within the meaning of Labor Code section 203 occurs
10 when an employer intentionally fails to pay wages to an employee when those wages
11 are due.” Cal. Code Regs., tit. 8, § 13520 (emphasis added).

12 19. Calculation of waiting time penalties for wages owed requires the
13 calculation of an employee’s daily rate of pay, which is then multiplied by a maximum
14 of 30 days, depending on the length of delay in receipt of wages, in order to determine
15 the amount of penalty owed. *See Mamika v. Barca*, 68 Cal. App. 4th 487, 493 (1998)
16 (holding that the waiting time penalty is “equivalent to the employee’s daily wages for
17 each day he or she remained unpaid up to a total of 30 days” and noting that the
18 “critical computation” is “the calculation of a daily wage rate, which can then be
19 multiplied by the number of days of nonpayment, up to 30 days”); *Tajonar v.*
20 *Echosphere, L.L.C.*, No. 14CV2732-LAB RBB, 2015 WL 4064642, at *4 (S.D. Cal.
21 July 2, 2015). Where final “wages [due] are alleged to have not been paid, the full
22 thirty-days may be used for each of the putative class members.” *Marentes v. Key*
23 *Energy Servs. Cal., Inc.*, No. 1:13-CV-02067 AWI, 2015 WL 756516, at *9 (E.D. Cal.
24 Feb. 23, 2015).

25 20. Amazon denies that any such penalties are owed to Plaintiffs or any
26 putative class members. However, for purposes of this jurisdictional analysis only,
27 Amazon relies on Plaintiffs’ allegations that the penalties are owed.

28

1 21. Amazon employed more than 100,000 non-exempt Amazon associates in
 2 fulfillment centers in California between June 6, 2015 and June 6, 2019. Declaration
 3 of Gina Distaso (“Distaso Decl.”) ¶ 5a. Of those individuals, more than 5,000 of them
 4 resigned or were terminated between June 6, 2016 and June 6, 2019. *Id.* ¶ 5b.

5 22. The average minimum wage in California during the relevant period was
 6 approximately \$10.00. *See* Exhibit G to Smith Decl. Based on that average, the daily
 7 pay for a full time employee can be estimated at \$80.00.

8 23. If, as Plaintiff alleges, non-exempt Amazon associates in fulfillment
 9 centers in California who left the employment of Amazon during the three years
 10 preceding the filing of the Complaint were owed wages and did not receive them, the
 11 amount in controversy with respect to the waiting time penalties claim for full-time
 12 employees alone would be at least \$12 million, calculated as follows:

\$80 daily pay x 30 days maximum penalty:	\$2,400 per employee
Minimum amount in controversy for waiting time penalties, based on Plaintiff’s allegations (\$2,400 x 5,000 employees):	\$12,000,000

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**2. Plaintiffs’ Request for Attorneys’ Fees Places Additional
 Amounts in Controversy, Further Exceeding the CAFA
 Threshold**

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 21 24. In addition to damages for 10 causes of action, only one of which is
 22 explored above, Plaintiffs also seek recovery of attorneys’ fees. *See, e.g.*, Compl. ¶ 7;
 23 Prayer for Relief ¶ 14.

24 25. Claims for attorneys’ fees are properly included in determining the
 25 amount in controversy. *See Guglielmino*, 506 F.3d at 700 (citing *Galt G/S v. JSS*
 26 *Scandinavia*, 142 F.3d 1150, 1156 (9th Cir. 1998)); *see also Sasso v. Noble Utah Long*
 27 *Beach, LLC*, No. CV 14-09154-AB AJWX, 2015 WL 898468, at *5–6 (C.D. Cal. Mar.
 28 3, 2015) (“The Court believes that, when authorized by an underlying statute, the

1 better view is to consider post-removal attorneys' fees because they are part of the total
2 'amount at stake.'" (citation omitted)); *Giannini v. Northwestern Mut. Life Ins. Co.*,
3 No. C 12-77 CW, 2012 WL 1535196, at *4 (N.D. Cal. Apr. 30, 2012) (finding
4 reasonable estimate of future attorneys' fees can be used in calculating the amount in
5 controversy).

6 26. For purposes of removal, the Ninth Circuit uses a benchmark rate of 25%
7 of the potential damages as the amount of attorneys' fees, and courts may include that
8 fee in the CAFA amount in controversy. *Hanlon v. Chrysler Corp.*, 150 F.3d 1011,
9 1029 (9th Cir. 1998); *In re Quintus Sec. Litig.*, 148 F. Supp. 2d 967, 973 (N.D. Cal.
10 2001) (benchmark for attorneys' fees is 25% of the common fund).

11 27. Amazon has plausibly demonstrated by a preponderance of the evidence
12 that the amount in controversy conservatively exceeds \$5 million, but the inclusion of
13 attorneys' fees, just to the calculation of minimum waiting time penalties detailed
14 above, would add another \$3 million to the amount in controversy bringing that total
15 number to \$15 million.

16 **3. In Total, Just One of Plaintiffs' Ten Causes of Action,**
17 **Including Attorneys' Fees, Place More Than \$15 Million In**
18 **Controversy**

19 28. Plaintiffs' allegations regarding minimum waiting time penalties place
20 more than \$12 million in controversy, and Plaintiffs' request for attorneys' fees
21 associated with just that one claim places more than \$3 million in controversy, for a
22 total of \$15 million in controversy.

23 29. These figures are under-inclusive of the actual amount in controversy
24 because they are based on conservative assumptions about Plaintiffs' putative class
25 allegations and conservative estimates of class members and wage rates, and do not
26 account for, among other things, Plaintiffs' nine other causes of action.

1 30. Plaintiffs’ allegations therefore place more than the requisite \$5 million in
2 controversy. Thus, the jurisdictional amount-in-controversy requirement is met, and
3 removal to this Court is proper under CAFA.

4 **B. Diversity of Citizenship as Defined by CAFA Exists**

5 31. To satisfy CAFA’s diversity requirement, a party need only show that
6 minimal diversity exists—that is that one putative class member is a citizen of a state
7 different from that of one defendant. 28 U.S.C. § 1332(d)(2); *United Steel, Paper &*
8 *Forestry, Rubber, Mfg., Energy, Allied Indus. & Serv. Workers Int’l Union, AFL-CIO,*
9 *CLC v. Shell Oil Co.*, 602 F.3d 1087, 1090–91 (9th Cir. 2010).

10 32. “An individual is a citizen of the state in which he is domiciled”
11 *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001). For the purposes of
12 assessing diversity, courts look to the individual’s domicile at the time that the lawsuit
13 is filed. *Lew v. Moss*, 797 F.2d 747, 750 (9th Cir. 1986).

14 33. A person is “domiciled” in a location where he or she has established a
15 “fixed habitation or abode in a particular place, and [intends] to remain there
16 permanently or indefinitely.” *Owens v. Huntling*, 115 F.2d 160, 162 (9th Cir. 1940)
17 (internal quotation and citation omitted).

18 34. Plaintiffs’ class allegations state, “Plaintiffs and those similarly situated
19 are residents of California. . . .” Compl. ¶ 9. None of the named Plaintiffs has pleaded
20 that he or she has left or intends to leave California. Thus, at least one putative class
21 member is a citizen of California for diversity jurisdiction purposes.

22 35. Pursuant to 28 U.S.C. § 1332, “a corporation shall be deemed to be a
23 citizen of every State and foreign state by which it has been incorporated and of the
24 State or foreign state where it has its principal place of business.” 28 U.S.C.
25 § 1332(c)(1). The “principal place of business” for the purpose of determining
26 diversity subject matter jurisdiction refers to “the place where a corporation’s officers
27 direct, control, and coordinate the corporation’s activities [I]n practice it should
28 normally be the place where the corporation maintains its headquarters—provided that

1 the headquarters is the actual center of direction, control, and coordination, *i.e.*, the
 2 ‘nerve center,’ and not simply an office where the corporation holds its board meetings
 3” *See Hertz Corp. v. Friend*, 559 U.S. 77, 92–93 (2010). Amazon is incorporated
 4 under the laws of Delaware and has its headquarters in Seattle, Washington. Distaso
 5 Decl. ¶¶ 3–4; Compl. ¶ 38. Accordingly, Amazon is a citizen of the States of
 6 Washington and Delaware for the purpose of determining diversity. 28 U.S.C. §
 7 1332(c)(1).

8 36. Therefore, based on the Complaint, at least one member of the putative
 9 plaintiff class is a citizen of a state different than at least one defendant. As a result,
 10 diversity jurisdiction exists under CAFA. 28 U.S.C. § 1332(d)(2)(A) (requiring only
 11 “minimal diversity” under which “any member of a class of plaintiffs is a citizen of a
 12 State different from any Defendant”).

13 **C. The Aggregate Number of Putative Class Members is 100 or Greater**

14 37. Plaintiffs assert claims on behalf of four putative classes. *See* Compl. ¶¶
 15 62–65. For instance, Plaintiffs assert a Waiting Time Subclass comprised of “[a]ll
 16 persons who were employed/hired by Defendant . . . and who, from four years prior to
 17 the filing of this complaint separated from Defendant’s employment, and who
 18 Defendant knowingly and willingly failed to pay all wages due . . . within 72 hours of
 19 the time such employee voluntarily or involuntarily ended their employment with
 20 Defendant.” *Id.* ¶ 65.

21 38. Based on Amazon’s internal records, the Waiting Time Subclass contains
 22 more than 100 putative class members. Distaso Decl. ¶ 5b.⁴

23 39. The other three subclasses—the Reporting Time Subclass, the Rest Break
 24 Subclass, and the Suitable Resting Facilities Subclass—are not limited to just those
 25

26 ⁴ Plaintiffs’ Complaint is ambiguous as to whether the class is to include only non-
 27 exempt hourly paid employees. Although all named Plaintiffs are non-exempt,
 28 hourly paid, the class definition is not so restricted. *Compare* Compl. ¶ 37 with
 Compl. ¶¶ 1, 62–65. But of course, including exempt employees would only
 increase both the number of Plaintiffs included in the class definition and the amount
 in controversy.

1 employees who separated from Defendant’s employment and could amount to all non-
2 exempt employees employed in Amazon’s California fulfillment centers during the
3 relevant time period. Based on Amazon’s internal records, these classes could contain
4 more than 100,000 putative class members. Distaso Decl. ¶ 5a.

5 40. The class as alleged in the Complaint therefore satisfies the number of
6 required members for the purposes of CAFA. 28 U.S.C. § 1332(d)(5)(B).⁵

7 **IV. VENUE**

8 41. This action was originally filed in the Superior Court for the County of
9 Orange. Initial venue is therefore proper in this district, pursuant to 28 U.S.C.
10 § 1441(a), because it encompasses the county in which this action has been pending.

11 **V. NOTICE**

12 42. Amazon will promptly serve this Notice of Removal on Plaintiffs and will
13 promptly file a copy of this Notice of Removal with the Clerk of the Superior Court of
14 the State of California, County of Orange, in which the action is pending, as required
15 under 28 U.S.C. § 1446(d).

16 43. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all “process,
17 pleadings, and orders served” upon Amazon as well as other documents filed in the
18 state court action are filed concurrently with this Notice of Removal as exhibits to the
19 Smith Declaration.

20 **VI. CONCLUSION**

21 Based on the foregoing, Amazon requests that this action be removed to this
22 Court. If any question arises as to the propriety of the removal of this action, Amazon
23 requests the opportunity to present a brief and oral argument in support of their
24 position that this case is subject to removal.

25 _____
26
27 ⁵ Amazon reserves the right to supplement or provide the Court with additional
28 briefing or information as necessary to appropriately assess CAFA’s jurisdictional
requirements or traditional diversity requirements with respect to the named
Plaintiffs. *Kanter*, 265 F.3d at 858 (noting that a party may “cure[] its defective
allegations . . . by amending its notice of removal”).

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Dated: July 5, 2019

MICHELE L. MARYOTT
KATHERINE V.A. SMITH
GIBSON, DUNN & CRUTCHER LLP

By: /s/ Michele L. Maryott
Michele L. Maryott

Attorneys for Defendant
AMAZON.COM SERVICES, INC.

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9 Attorneys for Defendant
AMAZON.COM SERVICES, INC.

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 SOUTHERN DIVISION

13 TREVION SHERMAN, MONIQUE
14 CARPENTER, CHRISTOPHER
15 BOOKER, SHELBY VIZIO, KRISTY
SLAYDON, JESSLYN WAITER,
16 CARLA LOPEZ, MICHAEL TIIMAN,
RICHARD BARBER, JUSTIN
17 WILLIAMS, IVAN URBINA,
ALLYSON MOTLEY, JACOB
18 MINYARD, GUILLERMO
MARTINEZ, CORY ADAMS,
19 RUSSEL CRUME, EDUARDO
SANDOVAL, ANDY DIONISIO,
20 BRIAN MENDEZ, STORM
CARFANGNIA, SYLVIA BAUTISTA,
21 EDUARDO CASTILLO, DARREN
DELIZO, JANET VACA, JANICA
22 LACH, TRAVIS WEBB and SEAN
WAITER, each individually on their
23 own behalf and on behalf of all others
similarly situated,

24 Plaintiffs,

25 v.

26 AMAZON.COM SERVICES, INC., a
Delaware Corporation; and DOES 1
27 through 10, inclusive,

28 Defendant.

CASE NO. 8:19-cv-1329

**DECLARATION OF KATHERINE
V.A. SMITH IN SUPPORT OF
DEFENDANT'S NOTICE OF
REMOVAL OF ACTION**

(Superior Court of California for the
County of Orange, Case No. 30-2019-
01074574-CU-OE-CXC)

1 I, Katherine V.A. Smith, hereby declare and state:

2 1. I am an attorney duly licensed to practice law before all the courts of the
3 State of California as well as the United States District Court for the Central District of
4 California. I am a partner in the law firm of Gibson, Dunn & Crutcher LLP, and am
5 one of the attorneys representing Defendant Amazon.com Services, Inc. (“Amazon”)
6 in the above-entitled action. Unless otherwise stated, I have personal knowledge of the
7 matters stated herein, and if asked to testify thereto, I would do so competently.

8 2. Attached hereto as **Exhibit A** is a true and correct copy of the Complaint
9 in *Sherman, et al. v. v. Amazon.com Services, Inc.*, Case No. 30-2019-01074574-CU-
10 OE-CXC, filed on June 6, 2019.

11 3. Attached hereto as **Exhibit B** is a true and correct copy of the Civil Case
12 Cover Sheet in *Sherman, et al. v. v. Amazon.com Services, Inc.*, Case No. 30-2019-
13 01074574-CU-OE-CXC, filed on June 6, 2019.

14 4. Attached hereto as **Exhibit C** is a true and correct copy of the Summons
15 in *Sherman, et al. v. v. Amazon.com Services, Inc.*, Case No. 30-2019-01074574-CU-
16 OE-CXC, filed on June 6, 2019.

17 5. Attached hereto as **Exhibit D** is a true and correct copy of the Payment
18 Receipt in *Sherman, et al. v. v. Amazon.com Services, Inc.*, Case No. 30-2019-
19 01074574-CU-OE-CXC, filed on June 6, 2019.

20 6. Attached hereto as **Exhibit E** is a true and correct copy of the Notice of
21 Case Assignment in *Sherman, et al. v. v. Amazon.com Services, Inc.*, Case No. 30-
22 2019-01074574-CU-OE-CXC, filed on June 6, 2019.

23 7. Attached hereto as **Exhibit F** is a true and correct copy of the Proof of
24 Service of Summons on Amazon Services, Inc. in *Sherman, et al. v. v. Amazon.com*
25 *Services, Inc.*, Case No. 30-2019-01074574-CU-OE-CXC, filed on June 11, 2019.

26 8. In accordance with 28 U.S.C. § 1446(a), Exhibits A–E constitute “all
27 process, pleadings, and orders served upon” Amazon and otherwise filed or entered in
28 the state court action.

1 9. Attached hereto as **Exhibit G** is a true and correct copy of the California
2 Department of Industrial Relations “History of California Minimum Wage,” which can
3 be located at <https://www.dir.ca.gov/iwc/minimumwagehistory.htm> (last viewed July
4 1, 2019).

5 I declare under penalty of perjury under the laws of the State of California and
6 the United States of America that the foregoing is true and correct and that I executed
7 this Declaration on July 5, 2019, at Los Angeles, California.

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/s/ Katherine V.A. Smith
Katherine V.A. Smith

EXHIBIT A

ELECTRONICALLY FILED
Superior Court of California,
County of Orange

06/06/2019 at 12:58:01 PM

Clerk of the Superior Court
By Sarah Loose, Deputy Clerk

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Attorneys for Plaintiffs, Trevion Sherman, Monique Carpenter, Christopher Booker, Shelby Vizio, Kristy Slaydon, Jesslyn Waiter, Carla Lopez, Michael Tiiman, Richard Barber, Justin Williams, Ivan Urbina, Allyson Motley, Jacob Minyard, Guillermo Martinez, Cory Adams, Russel Crume, Eduardo Sandoval, Andy Dionisio, Brian Mendez, Storm Carfangnia, Sylvia Bautista, Eduardo Castillo, Darren Delizo, Janet Vaca, Janica Lach, Travis Webb and Sean Waiter, each individually on their own behalf, and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE – COMPLEX CIVIL CENTER

TREVION SHERMAN, MONIQUE CARPENTER,)
CHRISTOPHER BOOKER, SHELBY VIZIO, KRISTY)
SLAYDON, JESSLYN WAITER, CARLA LOPEZ,)
MICHAEL TIIMAN, RICHARD BARBER, JUSTIN)
WILLIAMS, IVAN URBINA, ALLYSON MOTLEY,)
JACOB MINYARD, GUILLERMO MARTINEZ,)
CORY ADAMS, RUSSEL CRUME, EDUARDO)
SANDOVAL, ANDY DIONISIO, BRIAN MENDEZ,)
STORM CARFANGNIA, SYLVIA BAUTISTA,)
EDUARDO CASTILLO, DARREN DELIZO, JANET)
VACA, JANICA LACH, TRAVIS WEBB and SEAN)
WAITER, each individually on their own behalf, and on)
behalf of all others similarly situated,)

Plaintiffs,

vs.

AMAZON.COM SERVICES, INC., a Delaware
corporation; and DOES 1- 50, inclusive,

Defendant,

Case No.: 30-2019-01074574-CU-OE-CXC

CLASS ACTION COMPLAINT

1. **Failure to Pay Reporting Time Pay – IWC Order No. 9, Section 5;**
2. **Failure to Pay All Wages When Due Labor Code Section 204;**
3. **Failure to Provide Rest Breaks IWC No. 9-2001;**
4. **Failure to Provide Suitable Resting Facilities IWC No. 9-2001;**
5. **Failure to Pay Overtime Wages Lab. Cod. Section 510;**
6. **Failure to Pay Wages for Each Hour Worked Lab. Code Section 1194;**
7. **Failure to Provide Accurate Wage Statements Labor Code §§ 226, 1174, 1174.5 and IWC Order No. 9;**
8. **Failure to Maintain Record of Hours Worked Lab. Code Section 1174 (d);**
9. **Failure to Pay All Wages Due Upon Termination in Violation of Lab. Cod. § 201-203;**
10. **Unlawful Business Practices (Violation of Bus. & Prof. Code §17200, et seq.)**

JURY TRIAL DEMANDED

Plaintiffs, Trevion Sherman, Monique Carpenter, Christopher Booker, Shelby Vizio, Kristy

Assigned: Judge Glenda Sanders

Dept: CX101

1 Slaydon, Jesslyn Waiter, Carla Lopez, Michael Tiiman, Richard Barber, Justin Williams, Ivan Urbina,
2 Allyson Motley, Jacob Minyard, Guillermo Martinez, Cory Adams, Russel Crume, Eduardo
3 Sandoval, Andy Dionisio, Brian Mendez, Evan Gonzales, Storm Carfangnia, Sylvia Bautista,
4 Eduardo Castillo, Darren Delizo, Janet Vaca, Janica Lach, Travis Webb and Sean Waiter, each
5 individually on their own behalf (“Plaintiffs”) and on behalf of all others similarly situated allege as
6 follows:

7 **I. INTRODUCTION**

8 1. This is a Class Action, pursuant to *California Code of Civil Procedure* section 382, on behalf
9 of Plaintiffs, and all employees, including but not limited to, all non-exempt employees currently or
10 formerly employed by Amazon.com Services, Inc., a Delaware corporation. The non-exempt
11 employees currently employed by or formerly employed by Defendant within the State of California
12 are hereinafter referred to as the “Class Members.”

13 2. Upon information and belief, Defendant employs and has employed individuals in positions as
14 regular W-2, hourly-compensated, non-exempt employees, including positions in its fulfillment
15 warehouse centers. Any differences in job duties or activities as between different individuals are
16 legally insignificant to the issues present by this action.

17 3. Defendant has violated provisions of the *Industrial Wage Commission* Order No. 9-2001
18 Sections 5(A) and (B) (hereinafter, “IWC No. 9”) for failure to pay Reporting Time Pay, as well as
19 violation of IWC No. 9 Section 13 (B) for failure to provide suitable resting facilities as well as
20 provisions of California’s Labor Code, including violation of *Lab. Cod.* § 226 for failure to provide
21 accurate wage statements; *Lab. Cod.* § 1174 (d) for failure to maintain accurate record of all hours
22 worked; violation of *Lab. Cod.* §1194 for failing to pay its employees separately for each hour
23 worked; violation of *Lab. Cod.* §§ 201- 204 for failure to timely pay wages when due and for failure
24 to pay all wages due upon termination.

25 4. Plaintiffs also allege that these acts, constitute predicate unlawful and unfair business practices
26 in violation of California’s Unfair Competition Laws.
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1 5. Plaintiffs are informed and believe, and based thereon allege that Defendant currently
2 employs, and during the relevant period has employed hundreds of employees in the State of
3 California in same or similar, hourly full time or part time, non-exempt positions.

4 6. The acts complained of herein occurred, occur and will occur at least in part within the time
5 period from four (4) years preceding the filing of the Complaint, up to and through the time of trial
6 for this matter.

7 7. Plaintiffs bring this action as an individual on their own behalf and on behalf of all others
8 similarly situated, and seek damages as permitted by applicable law, including compensatory
9 damages, attorneys' fees, costs and expenses to redress Defendant's unlawful payment practices,
10 business policies, practices and/or procedures.

11 **II. JURISDICTION AND VENUE**

12 8. The Court has jurisdiction over Plaintiffs and Class Members' claims pursuant to Business and
13 Professions Code sections 17200-17208, who also seek injunctive relief and restitution of ill-gotten
14 benefits arising from Defendant's unlawful business acts and practices under California Business and
15 Professions Code sections 17200-17208.

16 9. Venue is proper in this judicial district, pursuant to Code of Civil Procedure section 395.
17 Plaintiffs and those similarly situated are residents of California and worked for Defendant in Orange
18 County and other counties in California. Defendant conducts business in Orange County and the
19 unlawful acts alleged herein have or had a direct effect on Plaintiffs and those similarly situated
20 within the State of California and within the County of Orange.

21 **III. THE PARTIES**

22 Plaintiffs

23
24 10. Plaintiff, Trevion Sherman was at all times relevant to this complaint an employee of Defendant.
25 He was at all relevant times a resident of Perris, California, and worked in Defendant's
26 warehouse fulfillment center in San Bernardino, in the County of San Bernardino during the
27

1 class period as a warehouse picker and sorter, and make on demand (“MOD”), stocker and sorter,
2 from June 1, 2015 to September 30, 2017. He will serve as an adequate, typical and active
3 participant and class representative for the proposed Class.

4 11. Plaintiff, Monique Carpenter was at all times relevant to this complaint an employee of
5 Defendant. She was at all relevant times a resident of Fontana, California. She was an employee
6 working in Defendant’s warehouse fulfillment center in Redlands, California in the County of
7 San Bernardino during the class period as a learning coordinator from October 5, 2014 to the
8 present date. She will serve as an adequate, typical and active participant and class representative
9 for the proposed Class.

10 12. Plaintiff, Christopher Booker was at all times relevant to this complaint an employee of
11 Defendant. He was at all relevant times a resident of Rialto, California and worked in
12 Defendant’s warehouse fulfillment center in Redlands, California, in the County of San
13 Bernardino during the class period as a warehouse picker, from July 20, 2017 to September 12,
14 2018. He will serve as an adequate, typical and active participant and class representative for
15 the proposed Class.

16 13. Plaintiff, Shelby Vizio was at all times relevant to this complaint an employee of Defendant. She
17 was at all relevant times a resident of Chino, California. She was an employee working in
18 Defendant’s warehouse fulfillment center in Fontana, California in the county of San Bernardino,
19 during the class period as a warehouse packer and picker from March 12, 2018 to April 6, 2019.
20 She will serve as an adequate, typical and active participant and class representative for the
21 proposed Class.

22 14. Plaintiff, Kristy Slaydon was at all times relevant to this complaint an employee of Defendant.
23 She was at all relevant times a resident of Hemet, California. She was an employee working in
24 Defendant’s warehouse fulfillment center in Moreno Valley, California in the County of
25 Riverside during the class period as a seasonal worker in the shipping and receiving department
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1 in the Moreno Valley warehouse from November 21, 2015 to March 10, 2016. She will serve as
2 an adequate, typical and active participant and class representative for the proposed Class.

3 15. Plaintiff, Jesslyn Waiter, was at all times relevant to this complaint an employee of Defendant.
4 She was at all relevant times a resident of Hesperia, California. She was an employee working in
5 Defendant's warehouse fulfillment center in Eastvale, California, in the County of Riverside
6 during the class period as a warehouse packer and picker from April 27, 2018 the present date.
7 She will serve as an adequate, typical and active participant and class representative for the
8 proposed Class.

9 16. Plaintiff, Carla Lopez was at all times relevant to this complaint an employee of Defendant. She
10 was at all relevant times a resident of Hesperia, California. She was an employee working in
11 Defendant's warehouse fulfillment center in Eastvale, California in the County of Riverside
12 during the class period as a warehouse packer and picker from August 8, 2016 to December 6,
13 2016. She will serve as an adequate, typical and active participant and class representative for
14 the proposed Class.

15 17. Plaintiff, Michael Tiiman was at all times relevant to this complaint an employee of Defendant.
16 He was at all relevant times a resident of Mira Loma, California and worked in Defendant's
17 warehouse fulfillment center in Moreno Valley, California, in the County of Riverside during
18 the class period as a warehouse associate from August of 2013 to June of 2018. He will serve as
19 an adequate, typical and active participant and class representative for the proposed Class.
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21 18. Plaintiff, Richard Barber was at all times relevant to this complaint an employee of Defendant.
22 He was at all relevant times a resident of Modesto, California and worked in Defendant's
23 warehouse fulfillment center in Tracy, California, in the County of San Joaquin during the class
24 period as a picker and amnesty responder from August 21, 2017 to the present date. He will
25 serve as an adequate, typical and active participant and class representative for the proposed
26 Class.

- 1 19. Plaintiff, Justin Williams was at all times relevant to this complaint an employee of Defendant.
2 He was at all relevant times a resident of Wildomar, California and has worked in Defendant's
3 warehouse fulfillment center in Riverside, California, in the County of Riverside, during the
4 class period as an In-bound Stower from March 26, 2018 to the present date. He will serve as an
5 adequate, typical and active participant and class representative for the proposed Class.
- 6 20. Plaintiff Ivan Urbina, was at all times relevant to this complaint an employee of Defendant. He
7 was at all relevant times a resident of San Francisco, California and worked in Defendant's
8 warehouse fulfillment center in San Francisco, California, in the County of San Francisco, during
9 the class period as a sorting associate from March 27, 2018 to March 20, 2019. He will serve as
10 an adequate, typical and active participant and class representative for the proposed Class.
- 11 21. Plaintiff, Allyson Motley was at all times relevant to this complaint an employee of Defendant.
12 She was at all relevant times a resident of Rialto, California. She was an employee working in
13 Defendant's warehouse fulfillment center in Redlands, California, in the County of San
14 Bernardino during the class period as a warehouse associate from December of 2013 to February
15 of 2017. She will serve as an adequate, typical and active participant and class representative for
16 the proposed Class.
- 17 22. Plaintiff Jacob Minyard, was at all times relevant to this complaint an employee of Defendant.
18 He was at all relevant times a resident of Jurupa Valley, California and worked in Defendant's
19 warehouse fulfillment center in Eastvale, California, in the County of Riverside, during the class
20 period as an inventory control quality assurance associate from September 9, 2016 to February
21 13, 2019. He will serve as an adequate, typical and active participant and class representative for
22 the proposed Class.
- 23 23. Plaintiff Guillermo Martinez, was at all times relevant to this complaint an employee of
24 Defendant. He was at all relevant times a resident of Riverside, California and worked in
25 Defendant's warehouse fulfillment center in San Bernardino, California, in the County of San
26 Bernardino, during the class period as a picker from June of 2015 to October of 2016. He will
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1 serve as an adequate, typical and active participant and class representative for the proposed
2 Class.

3 24. Plaintiff Cory Adams, was at all times relevant to this complaint an employee of Defendant. He
4 was at all relevant times a resident of Victorville, California and worked in Defendant's ONT2
5 warehouse fulfillment center in San Bernardino, California, in the County of San Bernardino, as
6 a seasonal worker during the class period as a tier one associate in the warehouse between
7 October 2015 and November 21, 2017. He will serve as an adequate, typical and active
8 participant and class representative for the proposed Class.

9 25. Plaintiff Russel Crume, was at all times relevant to this complaint an employee of Defendant. He
10 was at all relevant times a resident of Hemet, California and worked in Defendant's warehouse
11 fulfillment centers both in Moreno Valley and San Bernardino, California, in the Counties of
12 Riverside and San Bernardino, during the class period as a picker between May 1, 2013 and
13 February 13, 2016. He will serve as an adequate, typical and active participant and class
14 representative for the proposed Class.

15 26. Plaintiff, Eduardo Sandoval was at all times relevant to this complaint an employee of
16 Defendant. He was at all relevant times a resident of San Bernardino, California. He was an
17 employee working in Defendant's warehouse fulfillment center in San Bernardino, in the County
18 of San Bernardino during the class period as a warehouse associate from April 20, 2013 to May
19 23, 2018. He will serve as an adequate, typical and active participant and class representative for
20 the proposed Class.

21 27. Plaintiff, Andy Dionisio, was at all times relevant to this complaint an employee of Defendant.
22 He was at all relevant times a resident of San Jacinto, California. He was an employee working
23 in Defendant's warehouse fulfillment center in Moreno Valley, California in the County of
24 Riverside during the class period as a picker from December 3, 2017 to May 7, 2019. He will
25 serve as an adequate, typical and active participant and class representative for the proposed
26 Class.
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1 28. Plaintiff, Brian Mendez was at all times relevant to this complaint an employee of Defendant.
2 He was at all relevant times a resident of Temecula, California. He was an employee working in
3 Defendant's warehouse fulfillment center in Moreno Valley, in the County of Riverside during
4 the class period as a warehouse associate from October 5, 2016 to May 16, 2018. He will serve
5 as an adequate, typical and active participant and class representative for the proposed Class.

6 29. Plaintiff, Storm Carfangnia, was at all times relevant to this complaint an employee of
7 Defendant. He was at all relevant times a resident of Bell, California. He was an employee
8 working in Defendant's warehouse fulfillment centers in Buena Park and Rosemead, California
9 in the counties of Orange and Los Angeles during the class period as a seasonal warehouse
10 associate working as a sorter from February through March of 2016 and in December of 2018.
11 He will serve as an adequate, typical and active participant and class representative for the
12 proposed Class.

13 30. Plaintiff, Sylvia Bautista was at all times relevant to this complaint an employee of Defendant.
14 She was at all relevant times a resident of Riverside County, California. She was an employee
15 working in Defendant's warehouse fulfillment center in Moreno Valley, in the County of
16 Riverside during the class period as a warehouse packer and picker from December 2016 to
17 January 18, 2017. She will serve as an adequate, typical and active participant and class
18 representative for the proposed Class.

19 31. Plaintiff, Eduardo Castillo, was at all times relevant to this complaint an employee of Defendant.
20 He was at all relevant times a resident of Redlands, California. He was an employee working in
21 Defendant's warehouse fulfillment center in San Bernardino, in the County of San Bernardino
22 during the class period as a warehouse associate from June 24, 2014 to April 13, 2019. He will
23 serve as an adequate, typical and active participant and class representative for the proposed
24 Class.

25 32. Plaintiff, Darren Delizo, was at all times relevant to this complaint an employee of Defendant.
26 He was at all relevant times a resident of Garden Grove, California. He was an employee
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1 working in Defendant's warehouse fulfillment center in Buena Park California, in the County of
2 Orange during the class period as a seasonal associate sorter in the warehouse from November
3 20, 2018 to January 10, 2019. He will serve as an adequate, typical and active participant and
4 class representative for the proposed Class.

5 33. Plaintiff, Janet Vaca was at all times relevant to this complaint an employee of Defendant. She
6 was at all relevant times a resident of Fontana, California. She was an employee working in
7 Defendant's warehouse fulfillment center in Redlands, California, in the County of San
8 Bernardino during the class period as an HR Assistant I, from May 8, 2013 to the present date.
9 She will serve as an adequate, typical and active participant and class representative for the
10 proposed Class.

11 34. Plaintiff, Janica Lach was at all times relevant to this complaint an employee of Defendant.
12 She was at all relevant times a resident of Moreno Valley, California. She was an employee
13 working in Defendant's warehouse fulfillment center in Moreno Valley, California, in the
14 County of Riverside during the class period as a Stow from November 23, 2016 to the present
15 date. She will serve as an adequate, typical and active participant and class representative for the
16 proposed Class.

17 35. Plaintiff, Travis Webb, was at all times relevant to this complaint an employee of Defendant. He
18 was at all relevant times a resident of Victorville, California. He was an employee working in
19 Defendant's warehouse fulfillment center in San Bernardino, in the County of San Bernardino
20 during the class period as a warehouse packer from January 6, 2017 to March 7, 2018. He will
21 serve as an adequate, typical and active participant and class representative for the proposed
22 Class.

23 36. Plaintiff, Sean Waiter, was at all times relevant to this complaint an employee of Defendant. He
24 was at all relevant times a resident of Hesperia, California. He was an employee working in
25 Defendant's warehouse fulfillment center in Eastvale, California, in the County of Riverside
26 during the class period as an inbound warehouse associate from April 27, 2018 the present date.
27

1 He will serve as an adequate, typical and active participant and class representative for the
2 proposed Class.

3 37. The Class Members were or are employed by Defendant as regular, non-exempt hourly
4 employees during the Class Period and both worked and lived in the State of California.

5 38. Defendant, Amazon.com Services, Inc. is a corporation organized under the laws of Delaware,
6 and qualified to conduct business in the State of California, with its principal place of business
7 located at 410 Terry Avenue North, Seattle, Washington, 98109.

8 39. Defendant Amazon.com Services, Inc. maintains an online ecommerce storefront and is engaged
9 in the provision of retail sales and distribution of consumer merchandise goods and services of
10 merchant partners, throughout the United States and in many parts of Europe.

11 40. At the time of Plaintiffs' employment, Golden State FC, LLC formerly operated the inventory
12 warehouse and fulfillment / shipping centers, in joint venture with Defendant, Amazon.com,
13 Services, Inc. Pursuant to a merger in January of 2019, Golden State FC, LLC was dissolved
14 and merged with the Defendant, entity, Amazon.com Services, Inc. Thus, Defendant manages
15 its fulfillment and distribution services and out of which fulfillment and shipping centers,
16 Plaintiffs and thousands of employees are or were formerly employed, picking, sorting, packing
17 and shipping Amazon.com retail sales products.

18 41. The true names and capacities, whether individual, corporate, associate, or otherwise, of
19 Defendants sued herein as DOES 1 through 50, inclusive, are currently unknown to Plaintiffs,
20 who therefore sue these Defendants by such fictitious names under Code of Civil Procedure
21 section 474.

22 42. Plaintiffs are informed and believe, and based thereon allege, that each Defendant designated
23 herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein.
24 Plaintiffs will seek leave of court to amend this Complaint to reflect the true names and
25 capacities of the Defendants designated hereinafter as DOES when such identities become
26 known.
27

1 43. Plaintiffs are informed and believe, and based thereon allege, that each Defendant, including the
2 Doe Defendants acted in all respects pertinent to this action as the agent of the other Defendants,
3 carried out a joint scheme, business plan or policy in all respects pertinent hereto. In doing the
4 things alleged herein, each and every Defendant was acting within the course and scope of this
5 agency relationship and was acting with the consent, permission and authorization of each of the
6 remaining Defendant. All actions of each Defendant alleged in the causes of action (into which
7 this paragraph is incorporated by reference) were ratified and approved by the officers or
8 managing agents of each of the other Defendants.

9 44. Plaintiffs are informed and believe that at all times herein mentioned, each of the Defendants,
10 including the fictitious Doe Defendants, was the representative, agent and/or employee of each of
11 the remaining Defendant and in doing the things mentioned herein was acting with the consent,
12 permission and authorization of each of the other Defendants. All actions of each alleged in the
13 causes of action (into which this paragraph is incorporated by reference) were ratified and approved
14 by the officers or managing agents of every other.

15 45. The amount in controversy is in excess of the minimum jurisdiction of this court.

16 **IV. FACTUAL BACKGROUND**

17 46. Plaintiffs bring this action on behalf of all persons who either were employed by Defendant in
18 California (the “Class”) and who were subject to the same or similar illegal policies and practices
19 as set forth herein during the Class Period.

20 47. During a substantial portion of the relevant class period, Defendant failed to pay its workers
21 reporting time pay. Defendant conducts mass hiring interviews and those hired are given an
22 assigned date of hire and are instructed where and when to show up. During the Class Period,
23 many workers, at the rate of five or more per day, show up to work on their first day, expecting to
24 work their fully scheduled shift and upon check in, are found to be flagged in the computer
25 system as “ineligible to work” / due to a false error “failure to E-verify.” Dozens upon dozens of
26 new employees are/were sent home daily and weekly during the Class period without receiving
27

1 the requisite minimum reporting time pay in violation of the provisions of the Industrial Wage
2 Commission's Wage Order No. 2001-9 ("IWC Order No. 9"). The reason for the excessive
3 presence of these false flaggings in the Defendant's computer system when the newly-hired
4 employees show up for work is not because these employees have failed to provide requisite I-9
5 documentation. The excessive false flaggings of "ineligible to work" exist because E-
6 verifications are/were not being timely input and updated in the Defendant's computer system by
7 Defendant's employees who are tasked to do so. Thus, due to the failure on the part of
8 Defendant to timely update their computer, when new hires show up, hundreds – perhaps
9 thousands of employees are/were sent home during the class period without being given reporting
10 time pay.

11 48. Further, during the Class Period employees who are flagged as eligible to work in Defendant's
12 computer system, were instructed to show up to work on scheduled dates and times. Plaintiffs
13 and the Class Members would show up to their assigned warehouse facility and according to their
14 positions were organized into groups. After waiting an hour or sometimes longer, Defendant's
15 managers and supervisors come out and address them by their groups and select a number of
16 employees for whom Defendant deemed it had work for that day and the remaining employees
17 who showed up and reported for work as scheduled were sent home.

18 49. Further, on multiple occasions, Plaintiffs and other similarly situated Class Members were
19 furnished work for only an hour or two before being sent home, without the opportunity to work a
20 full or a half day shift. Alternatively, Defendant and its managers engaged in the practice of
21 telling workers who showed up to work their regularly scheduled shift that they could choose to
22 stay and work for four hours or voluntarily take the time off (hereinafter "VTO") and just go
23 home. Despite the fact that such workers were lawfully entitled to reporting time pay, such
24 workers who took Defendant's manipulative bait to choose VTO, were sent home, and were not
25 paid the reporting time pay to which they were entitled the moment they arrived at and reported
26 for work. Defendant's VTO policy was an unlawful manipulation to try to avoid paying the
27

1 Plaintiffs' and Class Members their lawfully entitled reporting time pay.

2 50. At no time during any given pay period, was/are Plaintiffs or the Class members paid reporting
3 time pay for the days they and the other Class Members show up or showed up to work as
4 scheduled, but were not furnished any work and were/are not furnished at least half of their
5 scheduled hours, but instead were/are sent home.

6 51. Further, during the Class Period, a substantial number of the Plaintiffs and the Class Members
7 clocked in ten to twenty-five minutes prior to their scheduled work shifts in order to check their
8 daily assignments on the bulletin board, to retrieve their equipment such as scanners, or other
9 equipment they needed to perform their assigned work duties. Defendant has failed to pay the
10 Plaintiffs and Class Members for the time in which they clocked in prior to the start of their shift,
11 which resulted in failure to pay all wages due during each pay period of their employment,
12 including overtime pay.

13 52. Defendant also maintains strict quota policies at all of its warehouse locations in the State of
14 California. If employees fall below their quotas, even at 99 percent productivity, they are
15 terminated. Moreover, Defendant includes rest break periods in the computation of their
16 employees' hourly / daily quotas, compromising and impeding their employees' right or ability to
17 take an actual rest break period. Further, disadvantageous locations and an insufficient number of
18 restrooms (such as at the one million square foot facility in Riverside, which alone houses over
19 1,000 employees), prohibit employees from getting an actual rest break, as they are required to
20 trek as long as seven minutes to reach the nearest restroom and then seven minutes back to their
21 work stations. Because it is Defendant's policy that the production clock *does not stop when*
22 *employees need to use the restroom facilities*, many of the Plaintiffs and Class Members have
23 been forced to forego bathroom breaks completely, simply out of fear of termination.

24 Accordingly, because of these working conditions - Defendant's quota policies and practices in
25 tracking and computing the achievement or non-achievement of such quotas, even during
26 purported "rest periods" and the corresponding deficiency in the number of and attendant,
27

1 reasonable access to restroom facilities, during the Class Period, the Plaintiffs and the Class
2 Members are and have been impeded from and deprived of their proper rest break periods.

3 53. Correspondingly, for the same reasons and policies, enumerated in paragraph 52 (supra)
4 Defendant has failed to provide suitable resting facilities for Plaintiffs and Class Members use
5 during their rest periods. Because of the above-described working conditions and Defendant's
6 quota policies and practices and computing the achievement or non-achievement of such quotas,
7 even during purported "rest periods" and the corresponding deficiency in the number of and
8 attendant, reasonable access to resting facilities, during the Class Period, the Plaintiffs and the
9 Class Members are and have been impeded and deprived of access to and utilization of proper
10 resting facilities during their workday rest periods.

11 54. Defendant has not and does not pay Plaintiffs and the Class Members premium pay wages equal
12 to one hour of pay, at their regular hourly rate of pay for their missed rest breaks.

13 55. As a result, of the foregoing policies and practices, Defendant does not and has not accurately
14 maintained records of hours worked by Plaintiffs and the Class Members.

15 56. In further and direct consequence of its policies and practices, Plaintiffs and the Class Members
16 did/do not receive accurately itemized wage statements, which should have, but did not include
17 and reflect 1.) proper reporting time pay for no less than (2), but no more than (4) hours, at their
18 regular hourly rates of pay, for each workday they were/are required to and did report for
19 scheduled work, but for which such schedule work was/is not furnished; 2.) payment for time
20 when the Plaintiffs and Class Members clock/clocked in and worked prior to their official starting
21 time of their shifts and 3.) resultant overtime pay for which they were not paid.

22 57. Therefore upon such information and belief, Plaintiffs' allege, Defendant have and continue to
23 violate the law by the above-stated policies, procedures and practices that chronically,
24 systemically, and on an operational-whole deprive them of the lawful wages to which they are
25 entitled under the IWC No. 9-2001.

26 58. As a further and direct result of not receiving their proper reporting time pay, pay for all hours
27

1 worked, including overtime pay and premium pay wages that were owed, a substantial portion of
2 the class members who ceased their employment during the Class Period were not fully and
3 timely paid all wages due upon termination.

4 59. Any differences in job activities between Plaintiffs and the Class Members they seek to represent
5 were and are legally insignificant to the issues presented by this action. The same policies,
6 procedures, practices, trainings, manuals, and compensation plans were distributed to the
7 Plaintiffs and each of the Class Members they seek to represent. As such, the policies, practices
8 and procedures were and are uniformly applied to the entire Class, which means individual issues
9 will not predominate, and in fact, all issues are systematically linked, related and common, both
10 in terms of facts and law, for Plaintiffs and each of the members of the Class Members they seek
11 to represent during the Class Period.

12 60. As a result of the foregoing procedures, policies and actions, Defendant has and is intentionally
13 and knowingly engaging in such practices without paying its employees all their lawful wages,
14 while opportunistically padding their own bottom line.

15 61. In addition, and pursuant to the Private Attorneys General Act (“PAGA”), Plaintiffs Jesslyn
16 Waiter and Carla Lopez gave notice to the Labor and Workforce Development Agency
17 (“LWDA”) of the Labor Code violations alleged in this complaint. (A true and correct copy of
18 the PAGA notice is attached hereto as **Exhibit A**.) At the appropriate time, absent action by the
19 LWDA or the Division of Labor Standards Enforcement (“DLSE”), Plaintiffs will file an
20 amended complaint seeking all recoverable penalties for Labor Code violations as permitted and
21 proscribed by the PAGA. An amended complaint will include allegations and remedies available
22 under Labor Code §§ 2699, 2699.5, and 2699.3, among others. See Cal. Labor Code § 2933.3 (a)
23 (2)(C) (“Notwithstanding any other provisions of law, a plaintiff may as a matter of right amend
24 an existing complaint to add a cause of action arising under this part within 60 days of the time
25 periods specified in this part.”
26
27
28

V. CLASS ALLEGATIONS

62. Plaintiffs bring this action on behalf of themselves and all others similarly situated as a class action pursuant to California Code of Civil Procedure Section 382. Plaintiffs seek to represent on behalf of themselves and all others similarly situated a portion of the class described as the Reporting Time Subclass as follows:

“All persons who were employed/hired by Defendant, AMAZON.COM SERVICES, INC. and/or the entity formerly known as GOLDEN STATE FC, LLC in the State of California, and who at any time within four (4) years of the filing of this Complaint worked in Defendant’s joint-venture fulfillment centers in the State of California and who, during any given pay period were instructed by Defendant to show up to work on a scheduled date for a scheduled time, but upon reporting for work were either sent home without such scheduled work being furnished, and/or who were furnished less than half of their usual or scheduled work, and were not paid no less than (2) nor more than four (4) hours of their regular rate of pay, at a rate of no less than minimum wage in reporting time pay.

63. Plaintiffs also bring certain of the claims, identified on behalf of themselves and a portion of the Class described as the Rest Period Subclass as follows:

“All persons who are or were employed/hired by Defendant, AMAZON.COM SERVICES, INC. and/or the entity formerly known as GOLDEN STATE FC, LLC in the State of California, and who at any time within four (4) years of the filing of this Complaint worked in Defendant’s joint-venture fulfillment centers in the State of California and who, from four years prior to the filing of this complaint were/are impeded from taking a rest break, and/or deprived of taking a rest break at the rate of every four hours (or major fraction thereof), and who, as a result of such missed rest breaks has not been compensated in an amount equal to one hour of pay at such individuals’ regular hourly rate of pay, during any given pay period during their term of employment.”

1 64. Plaintiffs also bring certain of the claims, identified on behalf of themselves and a
2 portion of the Class described as the Suitable Resting Facilities Subclass as
3 follows:

4 **“All persons who are or were employed/hired by Defendant,**
5 **AMAZON.COM SERVICES, INC. and/or the entity formerly**
6 **known as GOLDEN STATE FC, LLC in the State of California,**
7 **and who at any time within four (4) years of the filing of this**
8 **Complaint worked in Defendant’s joint-venture fulfillment centers**
9 **in the State of California and who, from four years prior to the filing**
10 **of this complaint were/are impeded or deprived of access to and**
11 **utilization of suitable resting facilities during their rest break**
12 **periods during any regularly scheduled workday, during their term**
13 **of employment.”**

14 65. Plaintiffs also bring certain of the claims, identified on behalf of themselves and a
15 portion of the Class described as the Waiting Time Subclass as follows:

16 **“All persons who were employed/hired by Defendant,**
17 **AMAZON.COM SERVICES, INC. and/or the entity formerly**
18 **known as GOLDEN STATE FC, LLC in the State of California,**
19 **and who at any time within four (4) years of the filing of this**
20 **Complaint worked in Defendant’s joint-venture fulfillment centers**
21 **in the State of California and who, from four years prior to the filing**
22 **of this complaint separated from Defendant’s employment, and**
23 **who Defendant knowingly and willfully failed to pay all wages due,**
24 **including reporting time wages, within 72 hours of the time such**
25 **employee voluntarily or involuntarily ended their employment with**
26 **Defendant during the Class Period.”**

27 66. Plaintiffs reserve the right under Rule 3.764, California Rules of Court, to amend or modify the
28 class or subclass descriptions with greater specificity or further division into subclasses or
limitation to particular issues.

67. This action has been brought and may properly be maintained as a class action under the provisions
of section 382 of the California Code of Civil Procedure because there is a well-defined community
of interest in the litigation and the proposed Class Members are easily ascertainable.

1 68. Numerosity: Plaintiffs are informed and believe and based on such information and belief
2 allege that the potential members of the Class as defined are so numerous that joinder of all the
3 members of the Class is impracticable. The exact number of the members of the class is
4 presently unknown to Plaintiffs, but upon information and belief, Plaintiffs allege that the
5 exact number and specific identities of the members of the Class may be readily ascertained
6 through inspection of Defendant's business records, but it is estimated that there is at least in
7 excess of 4,000 Class Members.

8 69. Commonality: There are questions of law and fact common to the Plaintiffs and to the Class
9 that predominate over any questions affecting only individual members of the Class. These
10 common questions of law and fact include, inter alia:

- 11 a.) Whether Defendant's policies, operational and payment practices constitute failure to
12 pay reporting time pay in violation of *IWC No. 9-2001* Section 5;
- 13 b.) Whether Defendant's policies, operational and payment practices constitute a violation
14 of *Lab. Cod. §§ 201-202* for failure to pay all wages due within the time specified by
15 law;
- 16 c.) Whether Defendant's policies, operational and payment practices constitute a violation
17 of the IWC Order No. 9 Section 12 (A) for failure to provide proper rest periods;
- 18 d.) Whether Defendant's policies, operational and payment practices constitute a violation
19 of the IWC Order No. 9 Section 12 (B) for failure to compensate premium pay wages as
20 provided therein for missed rest breaks;
- 21 e.) Whether Defendant's policies and operational practices constitute a violation of IWC
22 Order No. 9 Section 13 (B) for failure to provide suitable resting facilities;
- 23 f.) Whether Defendant's policies, operational and payment practices constitute violation of
24 *Lab. Cod. § 204* for failure to pay all wages earned by any person twice during each
25 calendar month, including payment of reporting time wages;
- 26
27
28

1 g.) Whether Defendant's policies, operational and payment practices constitute violation of
2 *Lab. Code* § 1194 for failure to pay Plaintiffs and the Class Members for each hour
3 worked;

4 h.) Whether Defendant's policies, operational and payment practices constitute violation of
5 *Lab. Code* § 1174 for failure to maintain accurate business records;

6 i.) Whether Defendant's policies, operational and payment practices constitute violation of
7 *Lab. Code* § 226 for failure to provide accurately itemized wage statements;

8 j.) Whether the Class Members are entitled to Waiting Time Penalties as provided by *Lab.*
9 *Cod.* §203 due to Defendant's policies, operational and payment practices alleged
10 herein;

11 k.) Whether Defendant's policies, operation and payment practices constitute Unfair
12 Business Practices pursuant to *Business and Professions Code* sections 17200, *et. seq.*

13 70. Typicality: Plaintiffs' claims are typical of the claims of the Class. Defendant's common
14 course of conduct in violation of law as alleged herein has caused Plaintiffs and Class
15 Members to sustain the same or similar injuries and damages. Thus, the relief sought by
16 Plaintiffs are representative of and typical of the relief sought on behalf of the proposed Class.

17 71. Adequacy of Representation: Plaintiffs are a member of the Class and does not have any
18 conflicts of interest with other Class Members. Plaintiffs will prosecute the case vigorously on
19 behalf of the Class. Plaintiffs has engaged Counsel who is competent and experienced in
20 litigating employment class actions. Plaintiffs will fairly and adequately protect the interest of
21 Class Members.

22 72. Superiority of Class Action: The nature of this action and the nature of the laws available to
23 Plaintiffs make the use of the class action format particularly efficient and the appropriate procedure
24 to afford relief to Plaintiffs and the members of the Class and Subclasses for the wrongs alleged
25 herein, for the following reasons:
26

27 a.) The State of California, for which there is a named representative, has a public policy
28

1 which encourages the use of the class action device.

2 b.) By establishing a technique whereby, the claims of many individuals can be resolved at
3 the same time, the class suit both eliminates the possibility of repetitious litigation and
4 provides small claimants with a method of obtaining redress for claims which would
5 otherwise be too small to warrant individual litigation.

6 c.) This case involves a large corporate Defendant and a large number of individual Class
7 Members with many relatively small claims and common issues of law and fact.

8 d.) If each individual member of the Class was required to file an individual lawsuit, the
9 large corporate Defendant would necessarily gain an unconscionable advantage because
10 Defendant would be able to exploit and overwhelm the limited resources of each
11 individual member of the Class with Defendant's vastly superior financial and legal
12 resources.

13 e.) Requiring each individual member of the Class to pursue an individual remedy would
14 also discourage the assertion of lawful claims by the members of the Class who would
15 be disinclined to pursue action against Defendant because of an appreciable and
16 justifiable fear of retaliation and permanent damage to their lives, careers and well-
17 being.

18 f.) Proof of a common policy and practice or factual pattern, of which the members of the
19 Class experienced, is representative of the Class herein and will establish the right of
20 each of the members of the Class to recover on the causes of action alleged herein.

21 g.) Absent class treatment, the prosecution of separate actions by the individual members
22 of the Class, even if possible, would likely create:

23 i) a substantial risk of each individual Plaintiffs presenting in separate, duplicative
24 proceedings the same or essentially similar arguments and evidence, including
25 expert testimony;

26 ii) a multiplicity of trials conducted at enormous expense to both the judicial system
27

1 and the litigants;

2 iii) inconsistent or varying verdicts or adjudications with respect to the individual
3 members of the Class against Defendant;

4 iv) potentially incompatible standards of conduct for Defendant; and

5 v) potentially incompatible legal determinations with respect to individual
6 members of the Class which would, as a practical matter, be dispositive of the
7 interests of the other members of the Class who are not parties to the
8 adjudications or which would substantially impair or impede the ability of the
9 members of the Class to protect their interests.

10 h.) The claims of the individual members of the Class are not sufficiently large to warrant
11 vigorous individual prosecution, considering all of the concomitant costs and expenses
12 attendant thereto.

13 i.) Courts seeking to preserve efficiency and other benefits of class actions routinely
14 fashion methods to manage any individual questions.

15 j.) Judicial precedent urges trial courts, which have an obligation to consider the use of
16 innovative procedural tools to certify a manageable class, to be procedurally innovative
17 in managing class actions.

18
19 73. Manageability of Class and Common Proof: The nature of this action and the nature of laws
20 available to Plaintiffs make use of the class action format and procedure a particularly efficient and
21 appropriate procedure to afford relief to Plaintiffs and members of the Class for the wrongs alleged
22 herein. Specifically, liability will turn on Defendant's own uniform, systematic practices failing to
23 pay its employees reporting time pay in violation of violation of California law during the Class
24 Period. Therefore, the violations alleged are predominant questions of fact that are easily capable
25 of being determined through manageable devices of common proof, such as statistical random
26 sampling, survey evidence based on scientific principles, representative testimony, documentary
27 evidence and common practices/procedures of Defendant in treating each of the members of the

1 Class as a homogeneous group. Once the predominant issues are determined, then each of the
2 derivative subclass claims and damages suffered by each member of the Class will be capable of
3 being shown by several means of common proof, and limited by individual showings of entitlement
4 to recovery that can be professionally administered and tailored to the facts and circumstances of
5 the case.

6 74. Class certification of the First through the Tenth causes of action is appropriate under *Cal. Civ.*
7 *Proc.* Code § 382 because questions of law and fact common to the Class and Subclasses
8 predominate over any questions affecting only individual members of the Class and Subclasses of
9 this litigation. Defendant's policies and practices unlawfully treated members of the Class and
10 Subclasses in a uniform fashion. The damages suffered by individual members of the Class and
11 Subclasses are small compared to the expense and burden of individual prosecution of this
12 litigation. In addition, class certification is superior because it will obviate the need for unduly
13 duplicative litigation that might result in inconsistent judgments about Defendant's practices.

14 75. Class certification of the First through Tenth causes of action is also appropriate pursuant to *Cal.*
15 *Civ. Proc.* Code § 382 because Defendant have acted or refused to act on grounds generally
16 applicable to the Class, making appropriate declaratory relief with respect to the Class and any
17 subsequently defined Subclasses as a whole.

18 76. Plaintiffs intends to send notice to all members of the Class and Subclasses to the extent required
19 by law and each will be given an opportunity to opt out of the proceedings.

20 77. Each of the following allegations pertain and apply to Plaintiffs and the Class equally throughout
21 all or a substantial part of the Class Period. Defendant has engaged in and enforced the following
22 unlawful practices and policies against Plaintiffs and the Class Members they seek to represent:
23

24 /

25 //

26 ///

VI. CAUSES OF ACTION

FIRST CAUSE OF ACTION

FAILURE TO PAY REPORTING TIME PAY

IWC Order No. 9, Section 5

(Against Defendant and Does 1 – 50, inclusive)

78. Plaintiffs, on their own behalf, and on behalf of the Non Reporting Time Pay Subclass

Members re-allege and incorporate by reference all of the foregoing paragraphs, as though fully set forth herein.

79. IWC Order No. 9-2001 Section 5 provides that, “Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage...”

80. During a substantial portion of the Class Period, members of the Non Reporting Time Pay Subclass showed up for work as scheduled by Defendant, prepared and expecting to work an entire schedule, but were sent home by Defendant without being furnished at least half of their scheduled work. On such occasions these employees were not paid reporting time pay for at least two hours, nor more than four hours of reporting time pay at their regular hourly rate of pay.

81. Defendant’s failure to pay reporting time pay to the employees who showed up for work and were sent home without out being furnished at least half of their scheduled work, was a violation of IWC No. 9 and the proximate cause in such Class members’ damages as stated below.

82. As a direct and proximate result of Defendant’s unlawful conduct, the members of the non-reporting time pay subclass have suffered, and continue to suffer, economic damages in an amount to be proven at trial.

1 83. Accordingly, each of the reporting time pay subclass members are entitled to recover and seek
2 to recover their non-reporting pay wages equal to a minimum of at least two hours of pay at
3 their regular hourly rate, plus interest thereon in amounts according to proof at trial.

4 84. Further, pursuant to IWC No. 9, Section 20, the reporting time pay sub class members seek to
5 recover penalties under *Lab. Cod.* Section 1199 equal to \$50 for each initial failure to properly
6 pay each employee reporting time wages; and in an amount equal to \$100 dollars for employee
7 for each subsequent failure to properly pay reporting time wages, in amounts according to proof
8 at trial.

9 **SECOND CAUSE OF ACTION**

10 **Failure to Timely Pay All Wages Within the Time Specified By Law**

11 **In Violation of Labor Code § 204**

12 **(Against Defendant and Does 1 – 50, Inclusive)**

13 85. Plaintiffs, on their own behalf and on behalf of the all the Class Members re-allege and
14 incorporate by reference all of the foregoing paragraphs, as though fully set forth herein.

15 86. The California Labor Code requires employers to pay all wages due within the time specified by
16 law. California Labor Code § 204 was in full force and effect at all relevant times herein.

17 87. Pursuant to Labor Code § 204, for employees entitled to pay twice per month, two periods of
18 pay are required. Labor performed between the 1st and 15th of the month must be paid between
19 the 16th and 26th of the same month and labor performed on the 16th and the end of the month
20 must be paid on pay days between the 1st and 10th of the following month.

21 88. Plaintiffs and the class members were entitled to be paid twice monthly for labor performed.
22 Although Plaintiffs and the class members are and/or were paid twice monthly, Defendant failed
23 and intentionally refused to pay Plaintiffs and the class members all wages they were entitled to,
24 twice monthly, including reporting time pay during each and every pay period of their
25 employment.

1 89. As alleged, Plaintiffs and class members were not paid for all of their wages, including
2 reporting time pay and premium pay wages for missed, non-compliant rest periods during every
3 single pay period during the term(s) of their employment.

4 90. Accordingly, as a result of the unlawful acts of Defendant, Plaintiffs and the class members
5 have been deprived of wages in amounts to be determined at trial, and are entitled to recovery of
6 such amounts, plus interest and penalties thereon, attorneys' fees, and costs of suit, pursuant to
7 Labor Code section 1194.

8 **THIRD CAUSE OF ACTION**

9 **Failure to Provide Rest Breaks**

10 **In Violation of IWC Order No. 9 -2001**

11 **(Against Defendant and Does 1 – 50, Inclusive)**

12 91. Plaintiffs on their own behalf and on behalf of all the Class Members, re-allege and incorporate
13 by reference all of the foregoing paragraphs, as though fully set forth herein.

14 92. During the liability period, as alleged, Defendant through its policies and practices, do not and
15 did not permit or impeded the non-exempt Plaintiffs' and Class Members' ability to take rest
16 periods.

17 93. By their failure to provide rest periods for every four hours or major fraction thereof worked per
18 day and by failing to provide compensation for such unprovided rest periods, as alleged above,
19 Defendant have willfully violated the provisions of Lab. Cod. § 226.7 and IWC No. 9, Section
20 12.

21 94. The Plaintiffs and Class Members did not and have not voluntarily or willfully waived their rest
22 periods.

23 95. Further, by their failure to keep and provide adequate and accurate records as required by
24 sections 226 and 1174(d) of the *Labor Code*, Defendant has injured the Plaintiffs and Class
25 Members and made it difficult for them to calculate their unpaid rest period compensation
26 (including wages, interest and penalties thereon) due the Plaintiffs and Class Members.

1 96. As a result of the unlawful acts of the Defendant, the Plaintiffs and Class Members have been
2 deprived of their lawfully-entitled premium pay compensation in amounts to be determined at
3 trial, and are entitled to recovery of such amounts, plus interest and penalties thereon,
4 attorneys' fees and costs under *Lab. Cod.* §§ 203, 226, 226.7, 1194 and applicable IWC No. 9,
5 Section 12 (B).

6 97. Wherefore, the Plaintiffs and the Class Members request relief as described herein and below.

7 **FOURTH CAUSE OF ACTION**

8 **Failure to Provide Suitable Resting Facilities**

9 **In Violation of IWC Order No. 9 -2001 Section 13 (B)**

10 **(Against Defendant and Does 1 – 50, Inclusive)**

11 98. Plaintiffs on their own behalf and on behalf of all the Class Members, re-allege and incorporate
12 by reference all of the foregoing paragraphs, as though fully set forth herein.

13 99. During the liability period, as alleged, Defendant through its policies and practices, do not and
14 have not provided, and/or impeded or deprived the Plaintiffs' and Class Members' ability to
15 access or utilize suitable resting facilities during their rest break periods.

16 100. By their failure to provide rest periods for every four hours or major fraction thereof worked
17 per day, Defendant has correspondingly failed to provide access and utilization of suitable
18 resting facilities and thus has willfully violated the provisions of IWC No. 9, Section 13 (B)
19 which provides, "Suitable resting facilities shall be provided in an area separate from the toilet
20 rooms and shall be available to employees during work hours."

21 101. As a result of the unlawful acts of the Defendant, the Plaintiffs and Class Members have been
22 deprived of their lawfully-entitled access to and utilization of suitable resting facilities and are
23 entitled to recovery of civil penalties for violation of IWC No. 9, Section 13 (B) and pursuant to
24 Labor Code Section 1199 (c), plus interest and penalties thereon, as well as their attorneys' fees
25 and costs in amounts to be proven at trial.

26 102. Wherefore, the Plaintiffs and the Class Members request relief as described herein and below.
27
28

FIFTH CAUSE OF ACTION

Failure to Pay Overtime Wages

In Violation of Lab. Code § 510, 1198 and IWC Wage Order 9-2001

(Against Defendant and Does 1 – 50, Inclusive)

103. The Plaintiffs, on their own behalf and on behalf of the similarly situated Class Members re-
allege and incorporate by reference all of the foregoing paragraphs, as though fully set forth
herein.

104. *California Lab. Cod.* § 510 provides that work in excess of eight hours in a day, or 40 hours in
a week, must be compensated at a rate of not less than one and one-half times the regular rate
of pay for an employee; and for the first eight hours worked on the seventh consecutive day of
work in a workweek; and double the employee's regular rate of pay for all hours worked in
excess of 12 hours in any workday and double the employee's regular rate of pay for all hours
worked in excess of eight on the seventh consecutive day of work in a workweek.

105. IWC Wage Order 9-2001 and *Cal. Code Reg.*, Title 8, section 11100 also provide that work in
excess of eight hours in a day, or 40 hours in a week, must be compensated at not less than one
and one-half times the regular rate of pay for an employee.

106. *Labor Code* section 1198 makes unlawful the employment of any employee under conditions
of labor prohibited by the applicable Wage Order.

107. Defendant's failure to pay the reporting-time pay Subclass and those similarly situated, resulted
in a failure to record and pay such individuals for all hours worked, resulting in unpaid overtime
wages. The Plaintiffs and such Class Members work, or have worked, more than eight hours in
a day and were not paid at the overtime rate for all hours worked and/or work or have worked in
excess of eight hours on the seventh consecutive day of work in a workweek without being paid
their proper overtime wages.

108. Pursuant to *Labor Code* sections 218 and 1194, the Plaintiffs and Class Members are entitled to
recover in a civil action the unpaid balance of the full amount of overtime compensation for all
hours worked in excess of eight hours a day.

1 109. Wage Order 9-2001 Section 20, provides for civil penalties for violations of the Wage Order.

2 As result of Defendant's violation of Wage Order 9-2001 the Plaintiffs and Class Members are
3 entitled to and hereby seek civil penalties in the amount of \$50 for the first violation and \$100
4 for each subsequent violation.

5 110. *Labor Code* section 558 provides that any employer who violates any provision regulating
6 hours and days of work in any order of the IWC shall be subject to civil penalties.

7 111. As a result of Defendant's violation of Wage Order 9-2001, the Plaintiffs and Class Members
8 are entitled to and hereby seek civil penalties in the amount of \$50 for the first violation and
9 \$100 for each subsequent violation.

10 112. *Labor Code* section 218.6 provides for interest on all unpaid wages in any action brought for
11 nonpayment of wages.

12 113. The Plaintiffs and Class Members seek to recover interest on all unpaid wages due.

13 114. The Plaintiffs and Class Members seek liquidated damages pursuant to *Labor Code* section
14 1194.2.

15 115. The Plaintiffs and Class Members seek to recover all unpaid overtime wages, penalties and
16 interest and interest due to them.

17 116. As a result of Defendant's conduct, the Plaintiffs and Class Members are also entitled to
18 attorneys' fees under *Lab. Cod.* §§ 218.5 and 1194, in addition to interest expenses and costs of
19 suit.

20 **SIXTH CAUSE OF ACTION**

21 **Failure to Pay Wages for Each Hour Worked**

22 **In Violation of Lab. Code § 1194**

23 **(Against Defendant and Does 1 – 50, Inclusive)**

24 117. The Plaintiffs, on their own behalf and on behalf of the similarly situated Class Members re-
25 allege and incorporate by reference all of the foregoing paragraphs, as though fully set forth
26 herein.

1 118. As alleged herein, during the Class Period Defendant has failed to properly compensate the
2 Plaintiffs and Class Members for all time they worked, including their proper reporting time
3 pay, premium pay wages and overtime wages.

4 119. By uniformly failing to track and record all of the hours worked by the Plaintiffs and the Class
5 Members, and failing to compensate them for all reporting time pay, premium pay wages and
6 overtime hours worked, Defendant was able to skim wages from employees by not paying them
7 a separate hourly wage for each and every hour worked as clearly required by California law.
8 Through this unlawful and illegal policy and practice, Defendant has failed to pay the Plaintiffs
9 and Class Members all wages owed to them.

10 120. Pursuant to Lab. Cod. § 1194, "... any employee receiving less than the legal minimum wage
11 or the legal overtime compensation applicable to the employee is entitled to recover in a civil
12 action the unpaid balance of the full amount of this minimum wage or overtime compensation,
13 including interest thereon, reasonable attorney's fees, and costs of suit.

14 121. Plaintiffs are informed and believe and based thereupon allege that the result of the unlawful
15 and illegal policy and practices of Defendant caused damage in the nonpayment of wages to
16 themselves and the proposed Class Members in an amount according to proof at trial.

17 122. The Plaintiffs are informed and believe that the nonpayment of their wages is fixed and
18 ascertainable on a class wide basis such that prejudgment interest on those wages is recoverable.

19 123. The Plaintiffs are also informed and believe that the nonpayment of wages for all labor
20 performed also entitles the Plaintiffs and the proposed Class Members to attorneys' fees and
21 costs, and liquidated damages in an amount equal to the amount unlawfully unpaid according to
22 Labor Code § 1194.2.

23 **SEVENTH CAUSE OF ACTION**

24 **Failure to Provide Accurate Wage Statements**

25 **In Violation of Lab. Code § 226**

26 **(Against Defendant and Does 1 – 50, Inclusive)**

1 124. Plaintiffs reallege and incorporate by this reference each of the preceding and foregoing
2 paragraphs as if fully set forth herein.

3 125. As alleged supra, during a substantial portion of the Class Period, Defendant knowingly and
4 intentionally failed to pay reporting time pay to its employees who showed up for work as
5 scheduled by Defendant, prepared and expecting to work an entire schedule, but were sent home
6 by Defendant without being furnished at least half of their scheduled work. On such occasions
7 these employees were not paid reporting time pay for at least two hours of reporting time pay at
8 their regular rate of pay in violation of IWC No. 9, Sections 5 (A) and (B).

9 126. Further as alleged, Defendant's workplace policies and practices tied to its mandatory
10 production quotas, combined with disadvantageous locations and lack of time for employees to
11 make it to accessible restrooms and back to their work stations in ten minutes has caused many
12 of the Plaintiffs and Class members to miss or skip their rest break periods entirely for fear of
13 termination for not meeting their production quotas. Such missed rest break periods are never
14 recorded and lawfully due premium pay wages for missed rest break periods do not and have
15 not been included on Plaintiffs' and Class Members' improperly itemized wage statements.

16 127. Such failures and violations as alleged herein have resulted in the Defendant's further failure to
17 record or pay overtime wages, during each and every pay period, and thus as a result, Defendant
18 knowingly and intentionally failed to provide accurate, itemized wage statements including,
19 *inter alia*, the applicable reporting time pay owed, premium pay wages owed and overtime
20 wages owed to the Plaintiffs and Class Members in accordance with *Lab. Cod.* § 226(a).

21 128. *Lab. Cod.* § 226(a) states, in pertinent part, that "[e]very employer shall, semimonthly or at the
22 time of each payment of wages, furnish each of his or her employees, either as a detachable part
23 of the check, draft, or voucher paying the employee's wages, or separately when wages are paid
24 by personal check or cash, an accurate itemized statement in writing showing (1) gross wages
25 earned, (2) total hours worked by the employee ..., (5) net wages earned, (6) the inclusive dates
26 of the period for which the employee is paid ..., and (9) all applicable hourly rates in effect

1 during the pay period and the corresponding number of hours worked at each hourly rate by the
2 employee ...”

3 129. *Lab. Cod.* § 226 (e)(1) states that “[a]n employee suffering injury as a result of a knowing and
4 intentional failure by an employer to comply with subdivision (a) is entitled to recover the
5 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
6 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
7 period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to
8 an award of costs and reasonable attorney’s fees.”

9 130. *Lab. Cod.* § 226(e)(2)(B) states “[a]n employee is deemed to suffer injury for purposes of this
10 subdivision if the employer fails to provide accurate and complete information as required by
11 any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot
12 promptly and easily determine from the wage statement alone one or more of the following: (i)
13 The amount of the gross wages or net wages paid to the employee during the pay period or any
14 of the other information required to be provided on the itemized wage statement pursuant to
15 items (2) to (4), inclusive, (6), and (9) of subdivision (a); and (ii) Which deductions the
16 employer made from gross wages to determine the net wages paid to the employee during the
17 pay period.”

18 131. *Lab. Cod.* § 226(e)(2)(C) defines “promptly and easily determine” to mean “a reasonable
19 person would be able to readily ascertain the information without reference to other documents
20 or information.”

21 132. *Lab. Cod.* § 226(e)(3) states that the phrase “knowing and intentional failure” “does not include
22 an isolated and unintentional payroll error due to a clerical or inadvertent mistake.”

23 133. During a substantial portion of the Class Period, Defendant has knowingly and willingly failed
24 to comply with *Lab. Cod.* § 226. As a matter of common policy and practice, Defendant did not
25 include reporting time pay and the applicable minimum two hours at the corresponding hourly
26 rate owed to its warehouse associate employees at its warehouse locations throughout the state
27 of California. Nor, as alleged did Defendant include premium pay wages equal to one hour of
28

1 pay the their employees’ regular hourly rate for missed and non-compliant rest break periods,
 2 nor did Defendant include overtime pay for overtime hours worked. Thus the wage statements
 3 distributed to Plaintiffs and Class Members were not accurate and did not contain all wages
 4 earned, during each and every pay period of their employment. Defendant’s knowing, and
 5 intentional omissions caused the Plaintiffs and Class Members to suffer “injury” by, among
 6 other things, impeding them from knowing the amount of wages to which they are/were
 7 lawfully entitled.

8 134. At all times relevant herein, Defendant failed to track, record and maintain accurate records of
 9 hours its employees worked, by failing to maintain any records of reporting time, for which
 10 such wages were owed its employees, as required under *Lab. Cod.* § 1174(d).

11 135. Thus, Plaintiffs and Class Members seek (i) injunctive relief pursuant to Lab. Code § 226 (h),
 12 requiring Defendant to comply with Labor Code §§ 226(a) and 1174(d), (ii) the amounts
 13 provided under Labor Code §§ 226(e) and 1174.5, including the greater of all actual damages or
 14 \$50 for the initial pay period in which a violation occurs and \$100 per employee for each
 15 violation in a subsequent pay period, and (iii) attorneys’ fees and costs.

EIGHTH CAUSE OF ACTION

Failure to Maintain Record of Hours Worked

In Violation of Lab. Code § 1174 (d)

(Against Defendant and Does 1 – 50, Inclusive)

16
 17
 18
 19
 20
 21 136. The Plaintiffs, on their own behalf and on behalf of the similarly situated Class Members re-
 22 allege and incorporate by reference all of the foregoing paragraphs, as though fully set forth
 23 herein.

24 137. *California Lab. Cod.* § 1174 (d), which was in force and effect at all relevant times herein,
 25 provides in pertinent part, that “Every person employing labor in this state shall keep... “at a
 26 central location in the state or at the plants or establishments at which employees are employed,
 27 payroll records showing the hours worked daily by and the wages paid to, and the number of
 28

1 piece-rate units earned by and any applicable piece rate paid to, employees employed at the
2 respective plants or establishments. These records shall be kept in accordance with rules
3 established for this purpose by the commission, but in any case shall be kept on file for not less
4 than three years. An employer shall not prohibit an employee from maintaining a personal
5 record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.”

6 138. Defendant failed to maintain records of all hours that the Plaintiffs and Class Members worked,
7 including the reporting time pay of which they were deprived, as well as failure to record
8 premium pay wages due for missed rest periods and overtime hours worked.

9 139. *Lab. Cod.* § 1174.5 provides that an employer who fails to maintain the records pursuant to
10 1174 (d) shall be subject to a civil penalty of five hundred (\$500) dollars.

11 140. As a result of Defendant’s violation of Section 1174 (d) the non-exempt Plaintiffs and Class
12 Members are entitled to and do hereby seek civil penalties in the amount of \$500.00.

13 141. Wherefore, the Plaintiffs and Class Members request relief as described herein and below.

14 **NINTH CAUSE OF ACTION**

15 **Failure to Timely Pay All Wages Due Upon Termination**

16 **In Violation of Labor Code § 201- 203**

17 **(Against Defendant and Does 1 – 50, Inclusive)**

18 142. Plaintiffs, on their own behalf and on behalf of the all the Class Members re-allege and
19 incorporate by reference all of the foregoing paragraphs, as though fully set forth herein.

20 143. Labor Code §§ 201 and 202 requires Defendant to pay their employees all wages due within
21 the time specified by law. California Labor Code § 203 provides that if an employer willfully
22 fails to timely pay such wages, the employer must continue to pay the employee’s subject
23 wages until the back wages are paid in full or an action is commenced, up to a maximum of 30
24 calendar days of wages.

25 144. During the Class Period, a substantial number of the Plaintiffs and Class Members ceased
26 employment with Defendant. At the time of separation such employees were entitled to be paid
27

1 all wages each of them were due, including the unpaid reporting time pay, unpaid premium pay
2 wages and unpaid overtime wages each such individual was due, but to date such Plaintiffs and
3 Class Members have not received such compensation.

4 145. More than 30 days have passed since such Plaintiffs and Class Members have left Defendant's
5 employ.

6 146. As a consequence of Defendant's systemic, chronic, knowing and willful conduct in not paying
7 compensation for all hours worked, including reporting time pay pursuant to IWC No. 9 Section
8 5, premium pay wages due for missed rest break periods and overtime wages, such Plaintiffs
9 and Class Members are entitled to 30 days' wages under Labor Code § 203, together with
10 interest thereon as well as their attorneys' fees and costs.

11 **TENTH CAUSE OF ACTION**

12 **UNLAWFUL, UNFAIR AND FRAUDULENT BUSINESS PRACTICES**
13 **In Violation of California Business and Professions Code Sections 17200 et seq.**
14 **(Against Defendant and Does 1-50, Inclusive)**

15 147. Plaintiffs on their own behalf, and on behalf of the Class Members re-allege and incorporate
16 by reference all of the foregoing paragraphs, as though fully set forth herein.

17 148. California Business and Professions Code Section 17200, et seq. prohibits unfair competition
18 in the form of any unlawful, unfair or fraudulent business act or practice.

19 149. California Business and Professions Code Section 17202 provides: "Notwithstanding Section
20 3369 of the Civil Code, specific or preventative relief may be granted to enforce a penalty,
21 forfeiture, or penal law in case of unfair competition."

22 150. California Business and Professions Code Section 17203 provides in relevant part that the
23 court may "restore to any person in interest any money or property, real or person, which may
24 have been acquired by means of such unfair competition."

25 151. California Business and Professions Code Section 17203 also provides that any person who
26 meets the standing requirements of Section 17204 and complies with California Code of Civil
27 Procedure Section 382 may pursue representative claims for relief on behalf of others.

1 152. California Business and Professions Code Section 17204 allows any “person who has
2 suffered injury in fact and has lost money or property as a result of such unfair competition” to
3 prosecute a civil action for violation of the Unfair Business Practices Act.

4 153. Pursuant to Section 17204, the Plaintiffs and other similarly situated employees are entitled to
5 enforce all applicable provisions of the California Labor Code and the Industrial Wage
6 Commission.

7 154. Beginning at an exact date unknown to Plaintiffs, but at least since the date four years prior to
8 the filing of this suit, Defendant has committed acts of unfair competition as defined by the
9 Unfair Business Practices Act, by engaging in the unlawful, unfair and fraudulent practices
10 and acts described in this Complaint, including, but not limited to violations of IWC No. 9,
11 Sections 5 and 12, and California Labor Code §§ 201-204, 226, 510, 1174 (d) and 1194.

12 155. The violations of these laws and statutes, serve as unlawful predicate acts and practices for
13 purposes of Business and Professions Code Section 17200 et seq.

14 156. The acts and practices described above constitute unfair, unlawful and fraudulent business
15 practices, and unfair competition, within the meaning of Business and Professions Code
16 Section 17200, et seq. Among other things, Defendant’s acts and practices have caused
17 Plaintiffs and other similarly situated workers to labor without receiving the their lawful
18 benefits of employments including receipt of reporting time pay wages, timely payment of
19 wages due by law, and all wages due upon separation of their employment with Defendant.

20 157. Plaintiffs and other similarly situated employees are therefore, entitled to restitution and
21 injunctive relief pursuant to Business and Professions Code Section 17203.

22 158. Plaintiffs are informed and believe, and based thereon allege, that Defendant has been unjustly
23 enriched through the acts described above and that they and the class members have suffered and
24 will continue to suffer irreparable prejudice by Defendant’s unlawful and unfair business
25 practices. Further, by engaging in such activities, Defendant is illegally operating at an unfair
26 advantage to other law-abiding employers in the State of California.
27

1 159. The illegal conduct alleged herein is continuing, and there is no indication that Defendant will
2 not continue such activity into the future. Plaintiffs and the Class Members allege that if
3 Defendant is not enjoined from the conduct set forth in this complaint, Defendant will continue to
4 unlawfully engage in the same business practices alleged herein.

5 160. Plaintiffs and the Class Members will request that the Court issue a preliminary and permanent
6 injunction prohibiting Defendant from continuing such unlawful acts including failure and refusal
7 to pay reporting time pay, to maintain accurate records or all hours worked, to provide accurately
8 itemized wage statements, to pay all wages as specified by law, and to pay all wages due upon
9 cessation or termination of employment.

10 161. Plaintiffs and the Class Members' success in this action will enforce important rights
11 affecting the public interest. Therefore, Plaintiffs sue on behalf of themselves and other
12 similarly situated employees.

13 162. An award of attorneys' fees is appropriate pursuant to California Civil Code Section 1021.5
14 because 1.) this action will confer a significant benefit upon a large class of persons; and 2.)
15 there is a financial burden involved in pursuing this action; and 3.) it would be against the
16 interest of justice to force Plaintiffs to pay attorneys' fees from any amount recovered in this
17 action.

18 **PRAYER FOR RELIEF**

19 Plaintiffs on behalf of themselves and the Class Members they seek to represent, pray for
20 relief as follows:

21 1. For an order certifying the First through Tenth causes of action and maintaining said causes
22 of action as a class action pursuant to Cal. Civ. Proc. Code § 382 on behalf of the members of the
23 Class or Subclasses who were either employed or who performed work here in the State of California
24 within the Class Period and that notice of the pendency of this action be provided to members of the
25 Class;
26

27 2. Designation of Plaintiffs as the Class Representatives for the Class and Plaintiffs' attorney
28

1 as Class Counsel for the Class.

2 3. For a declaratory judgment that Defendant has violated the IWC No. 9, Section 5 by
3 failing to pay reporting time pay wages as alleged herein;

4 4. For a declaratory judgment that Defendant has violated IWC No. 9, Section 12 (A) by
5 failing to provide compliant rest periods;

6 5. For a Declaratory judgment that Defendant has violated IWC No. 9, Section 12 (B) by
7 failing to pay compliant premium pay wages for missed rest periods;

8 6. For a declaratory judgment that Defendant has violated IWC No. 9, Section 13 (B) by
9 failing to provide suitable resting facilities;

10 7. For a declaratory judgment that Defendant has violated provisions of *California Labor*
11 *Code* Sections 201-201, 204, 226, 510, 1174, and 1194 as alleged herein.

12 8. For a permanent and mandatory injunctive relief and attorney's fees to ensure
13 Defendant's compliance with proper and accurate wage statement practices pursuant to Labor
14 Code Section 226(h);

15 9. For declaratory relief and judgment that Defendant has violated *California Business*
16 *and Professions Code* sections 17200 et seq. as a result of the aforementioned violations of the
17 IWC No. 9 and the California Labor Code.

18 10. For a permanent and mandatory injunction prohibiting Defendant, their officers,
19 agents, employees, affiliated companies and all those working in concert with them from
20 committing future violations of the laws and public policies described herein;

21 11. For an award of restitution;

22 12. For an order awarding Plaintiffs and Class Members compensatory damages
23 according to proof at trial and interest on these amounts;

24 13. For an order awarding Plaintiffs and Class Members statutory penalties pursuant to
25 Labor Code Sections 203, 226(e), 1174.5, and 1199, according to proof at trial and interest on
26 these amounts.
27

1 14. For award of reasonable attorneys' fees as provided by Lab. Code Sections 218.5 and
2 1021.5;

3 15. For all costs of suit, including expert witness fees; and


4 16. For such other and further relief as this Court deems just and proper.

5
6 **JURY DEMAND**

7 Plaintiffs and the Class Members they seek to represent, demand trial by jury of all claims and
8 causes of action so triable.

9
10 DATED: June 6, 2019

WHITEHEAD EMPLOYMENT LAW

11 By: 
12 Jacob Whitehead
13 Attorneys for Plaintiffs,
14 and the Putative Class Members

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EXHIBIT A



April 18, 2019

Via Online Filing and Mail

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via Certified Mail

CSC - Lawyers Incorporating Service
Registered Agent for, Amazon.Com Services, Inc.
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

Via Certified Mail

Michael D. Deal, CEO
Amazon.Com Services, Inc.
410 Terry Avenue North
Seattle, WA 98109

RE: PAGA Notice Pursuant to *California Labor Code* § 2698-2699

Dear Sir or Madam:

Please be advised that representative plaintiffs, Jesslyn Waiter and Carla Lopez (“Plaintiffs”) have retained Whitehead Employment Law, APC to represent them and other current or former employees (the “Aggrieved Employees”) against Amazon.Com Services, Inc., a Delaware corporation, duly registered and qualified to conduct business in California (hereinafter, “Defendant”) regarding certain wage and hour claim violations under the California Labor Code.

As explained in further detail below, Plaintiffs allege that Defendant has violated numerous California Labor Codes and provisions of the Industrial Wage Commission (“IWC”), thus, entitling Plaintiffs and the Aggrieved Employees to penalties under the PAGA. This letter will serve as notice of these allegations pursuant to the private Attorney Generals Act of 2004 (“PAGA”) and Cal. Lab. Code §§ 2698-2699.

This letter also formally serves to inform Defendant of Plaintiffs’ intent to file a class action complaint (the “Complaint”) and at the conclusion of the statutory waiting period, their intent to further amend their Complaint to bring a cause of action for violations of the PAGA for Defendant’ failure to: (1) pay the Aggrieved Employees for all wages earned; (2) failure to provide full and proper ten-minute rest breaks for every four hours worked; (3) pay wages equal to one hour at their regular hourly rate of pay for rest break violations; (4) pay reporting time wages; (5) pay overtime pay; (6) to maintain a record of all hours worked (7) to pay Plaintiffs and the Aggrieved Employees separately for each hour worked at the legal rate; (8) provide accurately, itemized wage statements; and (9) failure to timely pay all wages due at the time of separation or termination of employment. As a result, Defendant violated, among other statutes and regulations, Labor Code §§ 201-204, 226(a), 226.7, 510, 1174(a); 1194, and the provisions of Industrial Welfare Commission Wage Order 9-2001, Sections 5 and 12 (hereinafter, “IWC No. 9).

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Development Agency
April 18, 2019
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Plaintiffs are informed and believe and thereupon allege that said violations are ongoing, systematic and uniform. If Defendant fail to cure these alleged violations, as stated below, Plaintiffs will amend their civil Complaint and bring an action against Defendant under the PAGA to recover wages and penalties as provided by California law.¹

Plaintiffs and the Aggrieved Employees were employed at Amazon's shipping and fulfillment warehouse facilities located throughout the State of California. The full time and part time positions they held were sorters, pickers, packers, Make-On-Demand ("MODs) and other inbound or outbound duties related to sorting, stocking, picking, packing and shipping of inventory in the fulfillment warehouses.

Representative Plaintiff Jesslyn Waiter

Plaintiff, Jesslyn Waiter has been employed with Amazon as a full time employee at its warehouse facility located at 4950 Goodman Road, in Eastvale, California since April 27, 2018, where she remains currently employed. Her duties include picking and sorting. Ms. Waiter and similarly situated Aggrieved Employees are compensated as regular, hourly non-exempt employees.

Reporting Time Pay Violations: During the relevant statutory period, there have been multiple occasions when Plaintiff Jesslyn Waiter and other similarly-situated full or part time Aggrieved Employees have been scheduled for work and reported for work, but were sent home by Defendants without being provided any work as scheduled. On these occasions Ms. Waiter and the Aggrieved Employees are not/ and were not paid any reporting time pay. On other occasions, certain Aggrieved Employees were scheduled for work and were permitted to clock in, but were only provided and paid for four hours of work, when they had been scheduled to and did report to work a full ten-hour shift.

¹ Without limitation, Plaintiffs, if permitted, will seek any and all penalties otherwise capable of being collected by the Labor & Workforce Development Agency ("LWDA"). This includes, each of the following, as is set forth in Labor Code § 2699.5, which states:

The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of and subdivision (e) of Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.

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Overtime Pay Violations: Ms. Waiter and a similarly situated portion of the Aggrieved Employees work full time, comprised of four ten-hour days per week pursuant to a proposal by Defendant and agreement by a vote of the majority of the employees. However, Ms. Waiter and the Aggrieved Employees normally and daily clock in about five minutes prior to their scheduled shifts. For example, Ms. Waiter's normally scheduled work day is 7 a.m. to 5:30 p.m. Thus, she and the other Aggrieved Employees normally clock in at 6:55 a.m. During the five minutes before her 7 a.m. shift starts, Plaintiff and the Aggrieved Employees retrieve and inspect their scanning equipment, retrieve their computers (as applicable) and check the bulletin boards to see where they are assigned to work in the warehouse that day. At no time has Plaintiff or the similarly-situated Aggrieved Employees been paid for the time when they clock in. Instead Defendant has only paid Plaintiff and the Aggrieved employees for work performed from 7:00 a.m. to 5:30 p.m. regardless of their actual clock in times.

Rest Break Violations: The Defendants' fulfillment warehouse facilities are very large. The Eastvale, California warehouse is 1 million square feet – four story facility, equal to the length of 17 football fields. For example, The Eastvale warehouse facility is divided into North, South, East and West Divisions. However, rest rooms for the workers are only located in the East and West divisions. When Plaintiff and the Aggrieved Employees are required to use the rest room during their purported "rest breaks" it is a five to seven minute trek to reach the rest rooms, with barely enough time to use the rest room, due to the equal five to seven minute trek back to their work stations. Resultantly, due to the inadequate number of and poor placement of restroom facilities, Plaintiff and the Aggrieved Employees are not getting actual compliant rest breaks. Further pertinent to the rest break violations, Plaintiffs and the Aggrieved Employees are / were required to reach specific hourly and daily production quotas. Failure to meet the quotas results in warnings, write ups and ultimately, termination. Defendant compute and track their workers production quotas but such computation *includes* the time that workers are on their rest break or need to use the rest room facilities. As a result, many workers skip their rest breaks entirely out of fear that the seven minute trek both to and from their work stations will negatively impact their production quotas. Clearly, Defendant's policy in tracking and enforcement of production quotas and faulty, inadequate location of its restroom facilities has visited a devastating impact these Aggrieved Employees' because they are forced to make the decision to forego a proper rest break or use of the restroom, or risk discipline for a low production quota.

Carla Lopez

During the relevant statutory period, Plaintiff, Carla Lopez was also employed with Amazon as a full time employee at its warehouse facility located at 4950 Goodman Road, in Eastvale, California. She worked at the warehouse from January 30, 2018 to mid-June of 2018 picking and sorting, as a regular, hourly non-exempt employee. Her work schedule and experience at Amazon, concerning reporting time pay violations, rest breaks and not being paid for all time actually worked mirrors that of Plaintiff Jesslyn Waiter (as stated supra, and thus the alleged violations and practices of Defendant are incorporated by reference hereto) and that of hundreds if not thousands of similarly-situated aggrieved employees of Defendant during the relevant statutory period.

Due to the foregoing stated policies and practices of Defendant, the Plaintiffs on their own behalf and on behalf of all similarly-situated Aggrieved Employees allege that Defendant has and continues to violate the following provisions of the California Labor Code and IWC No. 9:

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Failure to provide Rest Breaks

Plaintiffs reallege and incorporate by this reference each of the preceding and foregoing paragraphs as if fully set forth herein. Pursuant to IWC No. 9, Section 12 (A) *“Defendant shall authorize and permit all employees to take rest period, which insofar as practicable shall be in the middle of each work period... based on the total hours worked at the rate of ten (10) minutes net rest time per four (4) hours worked or major fraction thereof.”* Section 12 (B) provides *“If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest period is not provided.”*

As a consequence of Defendant’s unlawful business practices and compensation practices set forth above, at no time during the relevant statutory period has Defendant provided Plaintiffs or the Aggrieved Employees a compliant ten minute rest break. Further at no time during the statutory period has Defendant paid Plaintiffs or the Aggrieved Employees the requisite one hour of pay at their regular hourly wage for failure to provide a ten minute rest period for every four hours worked (or a major fraction thereof).

Failure to Pay Reporting Time Pay

Plaintiffs reallege and incorporate by this reference each of the preceding and foregoing paragraphs as if fully set forth herein. As alleged supra, during the relevant statutory period, Defendant knowingly and intentionally failed to pay reporting time pay to its employees who showed up for work as scheduled by Defendant, prepared and expecting to work an entire schedule, but were sent home by Defendant without being furnished any work at all - or *if* they were furnished work, they were furnished less than and paid for less than half of their scheduled work.

Pursuant to IWC No. 9, Section 5, *“Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage...”* At no time were Plaintiffs or the Aggrieved Employees properly paid their reporting time wages.

Failure to Pay Overtime Wages

Plaintiffs reallege and incorporate by this reference each of the preceding and foregoing paragraphs as if fully set forth herein. As alleged supra, during the relevant statutory period, Plaintiffs routinely clock in five minutes prior to the start of their normally scheduled work shift, in order to assemble and check their scanning and computer equipment and to check their assigned work stations on the bulletin board. The additional time the Plaintiffs and Aggrieved Employees work at the start of their shifts (even though they had clocked in) was never recorded or paid by Defendants as it would have incurred overtime pay. Because this is a daily occurrence, Plaintiffs and the Aggrieved Employees are owed at least 40 minutes of overtime pay for each and every pay period they clocked in early and worked during the statutory period. Defendant, due to its faulty recording and payment practices has not and does not comply with Labor Code Section 510 by

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paying Plaintiffs or the Aggrieved Employees at 1.5 times their regular rate of pay for the hours they worked in excess of eight hours or in excess of 40 hours a week.

Labor Code Section 510 provides, *“Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at 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...”*

At no time has defendant paid Plaintiffs or the Aggrieved Employees for the actual time they clocked in and worked, which constitutes/constituted, not only free labor, but unpaid overtime. Upon information and believe, and thereupon Plaintiffs allege that they and the Aggrieved Employees are and were entitled to be paid their lawful overtime pay equal to at least 40 minutes equal to 1.5 times their regular hourly rate of pay during every single pay period they worked during the relevant statutory period.

Failure to Pay Wages

Plaintiffs reallege and incorporate by this reference each of the preceding and foregoing paragraphs as if fully set forth herein. As a consequence of Defendant’s unlawful business practices and compensation practices, Plaintiffs and the Aggrieved Employees were not paid all their wages as and when due during the relevant statutory period as set forth in 204, during each and every pay period. At all times relevant, Labor Code § 204 provides that all wages, other than those mentioned in sections 201, 202, 204.1, or 204.2, earned by any person in any employment, are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.

Failure to Maintain Records of All Hours Worked

Plaintiffs reallege and incorporate by this reference each of the preceding and foregoing paragraphs as if fully set forth herein. Labor Code § 1174 provides, that every person employing labor in this state shall “... Keep, at a central location in the state or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.”

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As stated above, Plaintiffs and the Aggrieved Employees routinely reported for work as scheduled but were sent home without paid, or if they *were* provided work, they were provided and paid for less than half of their regularly scheduled shift. Such time in which Plaintiffs and the Aggrieved Employees show or showed up for work and were sent home was never recorded, tracked.

Further, as stated supra, Plaintiffs and the Aggrieved Employees daily clocked or clock in five minutes prior to their scheduled shift, but Defendant has not and does not record such time; these five minutes of labor do not appear on Plaintiffs or the Aggrieved Employees semi-monthly wage statements, nor are they paid for such time. Because of Defendants policies and practices they have violated Labor Code Section 1174 (d).

Failure to Failed to Pay Employees Separately For Each Hour Worked at the Legal Rate

Plaintiffs reallege and incorporate by this reference each of the preceding and foregoing paragraphs as if fully set forth herein. Pursuant to Labor Code Section 1194, *“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 minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”*

As stated supra, Defendants have failed to track or record the time when Plaintiffs and the Aggrieved Employees reported for work as scheduled, but were sent home without pay or if they *were* provided work, they were provided and paid for less than half of their regularly scheduled shift. Further, Plaintiffs and the Aggrieved Employees routinely clock or clocked in five minutes prior to their scheduled shifts, but Defendant has not and does not record such time; nor are they paid for such time as it does not appear as time worked on Plaintiffs or the Aggrieved Employees semi-monthly wage statements. Essentially Plaintiffs and the Aggrieved Employees are working this time at the beginning of each work day for free. Because of Defendants policies and practices they have violated Labor Code Section 1194.

Failure to Provide Accurately Itemized Wage Statements

Plaintiffs reallege and incorporate by this reference each of the preceding and foregoing paragraphs as if fully set forth herein. As a further and direct result of Defendant’s business and compensation practices, Plaintiffs and the Aggrieved Employees were not and have not been provided with accurately itemized wage statements, for each and every pay period during the relevant statutory period in violation of Labor Code § 226 (a). At all times relevant, Labor Code § 226 requires Defendant to “furnish each of [its] employees, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash, an itemized statement in writing showing: (1) gross wages earned, (2) total hours worked by the employee, ... (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, 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.”

Here, as set forth in the facts above, because of their operational policies and compensation practices, Defendant has resultantly violated Labor Code § 226. As factually alleged above,

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Defendant at all relevant times has maintained a uniform policy and practice to violate said Labor Code by failing to account for all of the hours worked by the Plaintiffs and Aggrieved Employees, and failing to accurately set forth the net and gross wages earned, when they knowingly failed to pay the Aggrieved Employees reporting time pay, failed to pay the requisite one hour wage for missed rest breaks and failed to pay overtime pay. Resultantly, Defendant violated the wage statement requirements of Labor Code § 226 by failing to accurately record the Aggrieved Employees' respective (1) gross wages earned, (2) total hours worked, (3) net wages earned, and (4) all applicable hourly rates and the corresponding number of hours worked at each hourly rate.

Failure to Pay All Wages Due Upon Discharge/Separation of Employment

Plaintiffs reallege and incorporate by this reference each of the preceding and foregoing paragraphs as if fully set forth herein.

At all times relevant, Labor Code § 201 provides that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.

At all times relevant, Labor Code § 202 provides that if employees not having a written contract for a definite period quits their employment, their wages shall become due and payable no later than 72 hours thereafter, unless the employee has given 72 hours advance notice of their intention to quit, in which case the employee is entitled to their wages at the time of quitting.

At all times relevant, Labor Code § 203 provides that an employer who willfully fails to pay, without abatement or reduction, in accordance with sections 201 and 202, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, but the wages shall not continue for more than 30 days.

As a consequence of Defendant's failure to pay all the wages due, (as set forth above) to Plaintiff Lopez (who separated from Defendant's employ in June of 2018) and similarly-situated Aggrieved Employees who also separated from their employment with Defendant during the statutory time period, prior to April 18, 2019, they were not properly paid all wages owed upon discharge or separation in violation of Labor Code Section 201.

As alleged, Plaintiffs claim on behalf of themselves and similarly-situated Aggrieved Employees that Defendant has uniformly violated California's Labor Codes and the provisions of IWC. No. 9, including, but not limited to:

Failure to (1) pay the Aggrieved Employees for all wages earned; (2) to provide full and proper ten-minute rest breaks for every four hours worked; (3) to pay wages equal to one hour at their regular hourly rate of pay for rest break violations; (4) to pay reporting time wages; (5) to pay overtime pay; (6) to maintain a record of all hours worked (7) to pay Plaintiffs and the Aggrieved Employees separately for each hour worked at the legal rate; (8) to provide accurately, itemized wage statements; and (9) to timely pay all wages due at the time of separation or termination of employment.

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Conclusion

Plaintiffs allege that Defendant has violated several provisions of California's Labor Code, including without limitation Labor Code §§ 201-204, 226(a), 226.7, 510, 1174(a); 1194, and the provisions of IWC No. 9 Sections 5 and 12. Thus, Plaintiffs on behalf of themselves and on behalf of the Aggrieved Employees request the LWDA to investigate the above allegations and provide notice of its intention to investigate and pursue the allegations under PAGA's provisions.

Alternatively, Plaintiffs request the agency inform them (by and through their undersigned counsel) if it does not intend to investigate these violations so that they may amend their lawsuit to include the violations discussed in this letter.

Should you have any questions or comments regarding the foregoing, or any aspect of this matter, please do not hesitate to contact our offices.

Sincerely,

WHITEHEAD EMPLOYMENT LAW



Jacob N. Whitehead

JNW/dlp

EXHIBIT B

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Jacob N. Whitehead SBN 266123 WHITEHEAD EMPLOYMENT LAW 15615 Alton Pkwy., Suite 175 Irvine, CA 92618 TELEPHONE NO.: (949) 936-4001 FAX NO.: (949) 450-1588 ATTORNEY FOR (Name): Plaintiffs, Trevion Sherman, et al.	FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of Orange 06/06/2019 at 12:58:01 PM Clerk of the Superior Court By Sarah Loose, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 751 W. Santa Ana Blvd. Bldg. 36 MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, CA 92701-4512 BRANCH NAME: Civil Complex Center	CASE NUMBER: 30-2019-01074574-CU-OE-CXC JUDGE: Judge Glenda Sanders DEPT: CX101
CASE NAME: TREVION SHERMAN et al. v. AMAZON.COM SERVICES, INC.	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

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

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

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input checked="" type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence | f. <input checked="" type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): 10
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: June 6, 2019
 Jacob N. Whitehead

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

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

EXHIBIT C

**SUMMONS
(CITACION JUDICIAL)**

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

ELECTRONICALLY FILED
Superior Court of California,
County of Orange
06/06/2019 at 12:58:01 PM
Clerk of the Superior Court
By Sarah Loose, Deputy Clerk

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

AMAZON.COM SERVICES, INC., a Delaware corporation; and DOES 1-50, inclusive,

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

TREVION SHERMAN, MONIQUE CARPENTER, CHRISTOPHER BOOKER, SHELBY VIZIO (see additional parties attachment form)

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

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

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

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

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

The name and address of the court is:
(El nombre y dirección de la corte es): **Orange County Superior Court**
Civil Complex Center - 751 W. Santa Ana Blvd., Bldg. 36, Santa Ana, CA 92701

CASE NUMBER:
(Número del Caso):
30-2019-01074574-CU-OE-CXC

Judge Glenda Sanders

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Whitehead Employment Law; 15615 Alton Pkwy., Ste 175, Irvine, CA 92618 (949) 936-4001

DAVID H. YAMASAKI, Clerk of the Court

DATE: **06/06/2019**
(Fecha)

Clerk, by _____, Deputy
(Secretario) *S. Loose* (Adjunto)

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

Sarah Loose



NOTICE TO THE PERSON SERVED: You are served

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

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
- by personal delivery on (date):

SHORT TITLE: TREVION SHERMAN et al. v. AMAZON.COM SERVICES, INC.	CASE NUMBER:
---	--------------

INSTRUCTIONS FOR USE

- ➔ This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- ➔ If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

Plaintiff
 Defendant
 Cross-Complainant
 Cross-Defendant

KRISTY SLAYDON, JESSLYN WAITER, CARLA LOPEZ, MICHAEL TIIMAN, RICHARD BARBER, JUSTIN WILLIAMS, IVAN URBINA, ALLYSON MOTLEY, JACOB MINYARD, GUILLERMO MARTINEZ, CORY ADAMS, RUSSEL CRUME, EDUARDO SANDOVAL, ANDY DIONISIO, BRIAN MENDEZ, STORM CARFANGNIA, SYLIVA BAUTISTA, EDUARDO CASTILLO, DARREN DELIZO, JANET VACA, JANICA LACH, TRAVIS WEBB and SEAN WAITER, each individually on their own behalf, and on behalf of all others similarly situated

EXHIBIT D



SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE

Superior Court of California, County of Orange

751 W. Santa Ana Blvd
 Santa Ana, CA 92701

PAYMENT RECEIPT

E-Filing Transaction #: 4977396

Receipt #: 12389538

Clerk ID: sloose

Transaction No: 12565600

Transaction Date: 06/06/2019

Transaction Time: 03:35:23 PM

Case Number	Fee Type	Qty	Fee Amount\$	Balance Due	Amount Paid	Remaining Balance		
30-2019-01074574-CU-OE-CXC	194 - Complaint or other 1st paper	1	\$435.00	\$435.00	\$435.00	\$0.00		
30-2019-01074574-CU-OE-CXC	34 - Complex Case Fee - Plaintiff	1	\$1,000.00	\$1,000.00	\$1,000.00	\$0.00		
					Sales Tax:	\$0.00		
					Total:	\$1,435.00	Total Rem. Bal:	\$0.00

E-Filing : - OneLegal

E-Filing: \$1,435.00

Total Amount Tendered: \$1,435.00

Change Due: \$0.00

Balance: **\$0.00**

A \$45 fee may be charged for each returned check, electronic funds transfer or credit card payment.

ORIGINAL

EXHIBIT E

SUPERIOR COURT OF CALIFORNIA

751 W. Santa Ana Blvd
 Santa Ana , CA 92701
 (657) 622-5300
 www.occourts.org

NOTICE OF CASE ASSIGNMENTCase Number: **30-2019-01074574-CU-OE-CXC**

Your case has been assigned for all purposes to the judicial officer indicated below. A copy of this information must be provided with the complaint or petition, and with any cross-complaint that names a new party to the underlying action.

ASSIGNED JUDGE	COURT LOCATION	DEPARTMENT/ROOM	PHONE
Hon.			(657) 622-5300
Hearing:	Date:	Time:	
JUDGE	COURT LOCATION	DEPARTMENT/ROOM	PHONE
Hon.			

[x] ADR Information attached.

SCHEDULING INFORMATION**Judicial Scheduling Calendar Information**

Individual courtroom information and the items listed below may be found at: www.occourts.org.

Case Information, Court Local Rules, filing fees, forms, Civil Department Calendar Scheduling Chart, Department phone numbers, Complex Civil E-filing, and Road Map to Civil Filings and Hearings.

Ex Parte Matters

Rules for Ex Parte Applications can be found in the California Rules of Court, rules 3.1200 through 3.1207 at: www.courtinfo.ca.gov. Trials that are in progress have priority; therefore, you may be required to wait for your ex parte hearing.

Noticed Motions

- * The following local Orange County Superior Court rules are listed for your convenience:
 - Rule 307 - Telephonic Appearance Litigants - Call CourtCall, LLC at (310) 914-7884 or (888) 88-COURT.
 - Rule 380 - Fax Filing, Rule 450 - Trial Pre-Conference (Unlimited Civil)
- * All Complex Litigation cases are subject to mandatory Electronic Filing, unless excused by the Court.
- * Request to Enter Default and Judgment are strongly encouraged to be filed as a single packet.

Other Information

Hearing dates and times can be found on the Civil Department Calendar Scheduling Chart.

All fees and papers must be filed in the Clerk's Office of the Court Location address listed above.

Date: 06/06/2019

Sarah Stross, Deputy Clerk

NOTICE OF CASE ASSIGNMENT

EXHIBIT E

Page 1

EXHIBIT F

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Jacob N. Whitehead, 266123 Whitehead Employment Law 15615 Alton Parkway, Suite 175 Irvine, CA 92618 TELEPHONE NO.: (949) 936-4001 ATTORNEY FOR (Name): Plaintiff</p>	<p>FOR COURT USE ONLY</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Superior Court of California, Orange County 751 W. Santa Ana Blvd. Santa Ana, CA 92701</p>	<p>ELECTRONICALLY FILED Superior Court of California, County of Orange 06/11/2019 at 03:28:00 PM Clerk of the Superior Court By Sarah Loose, Deputy Clerk</p>
<p>PLAINTIFF/PETITIONER: Trevion Sherman, et al DEFENDANT/RESPONDENT: Amazon.Com Services, Inc., et al</p>	<p>CASE NUMBER: 30-2019-01074574-CU-OE-CXC</p>
<p>PROOF OF SERVICE OF SUMMONS</p>	<p>Ref. No. or File No.: Bautista-Amazon</p>

1. At the time of service I was a citizen of the United States, at least 18 years of age and not a party to this action. **BY FAX**
 2. I served copies of: Class Action Complaint, Civil Case Cover Sheet, Summons

3. a. Party served: Amazon.Com Services, Inc., a Delaware Corporation
 b. Person Served: CSC Steve Cassidy - Person Authorized to Accept Service of Process

4. Address where the party was served: 2710 N Gateway Oaks Dr, Ste 150
 Sacramento, CA 95833

5. I served the party
 a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): 06/07/2019 (2) at (time): 1:50PM

6. The "Notice to the Person Served" (on the summons) was completed as follows:

d. on behalf of:

Amazon.Com Services, Inc., a Delaware Corporation
 under: CCP 416.10 (corporation)

7. Person who served papers
 a. Name: Tyler Anthony Dimaria
 b. Address: One Legal - 194-Marin
 1400 North McDowell Blvd, Ste 300
 Petaluma, CA 94954
 c. Telephone 415-491-0606
 d. The fee for service was: \$ 40.00
 e. I am:
 (3) registered California process server.
 (i) Employee or independent contractor.
 (ii) Registration No.: 2006-06
 (iii) County: Sacramento

8. I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.
 Date: 06/07/2019



Tyler Anthony Dimaria
 (NAME OF PERSON WHO SERVED PAPERS)

 (SIGNATURE)

EXHIBIT G



Department of Industrial Relations

[iwc](#) | History of California Minimum Wage

History of California Minimum Wage

Effective Date	Minimum Wage (for Employers with 26 Employees or More)	Minimum Wage (for Employers with 25 Employees or Less)	Percentage of Increase Over Previous Wage (26 Employees or More)	Percentage of Increase Over Previous Wage (25 employees or Less)
January 1, 2018	\$11.00/hour	\$10.50/hour	4.76 percent	5 percent
January 1, 2017	\$10.50/hour	\$10.00/hour	5 percent	No Change

Effective Date	New Minimum Wage	Old Minimum Wage	Amount of Wage Increase	Percentage of Increase Over Previous Wage
January 1, 2016	\$10.00	\$9.00	\$1.00	11.1 percent
July 1, 2014	\$9.00	\$8.00	\$1.00	12.5 percent
January 1, 2008	\$8.00	\$7.50	\$0.50	6.7 percent
January 1, 2007	\$7.50	\$6.75	\$0.75	11.1 percent
January 1, 2002	\$6.75	\$6.25	\$0.50	8.00 percent
January 1, 2001	\$6.25	\$5.75	\$0.50	8.70 percent
March 1, 1998	\$5.75	\$5.15	\$0.60	11.65 percent
September 1,	\$5.15	\$5.00	\$0.15	3.00 percent

1997				
March 1, 1997	\$5.00	\$4.75	\$0.25	5.26 percent
October 1, 1996	\$4.75	\$4.25	\$0.50	11.76 percent
July 1, 1988	\$4.25	\$3.35	\$0.90	26.87 percent
January 1, 1981	\$3.35	\$3.10	\$0.25	8.06 percent
January 1, 1980	\$3.10	\$2.90	\$0.20	6.90 percent
January 1, 1979	\$2.90	\$2.65	\$0.25	9.43 percent
April 1, 1978	\$2.65	\$2.50	\$0.15	6.00 percent
October 18, 1976	\$2.50	\$2.00	\$0.50	25.00 percent
March 4, 1974	\$2.00	\$1.65	\$0.35	21.21 percent
February 1, 1968	\$1.65	\$1.30	\$0.35	26.92 percent
August 30, 1964	\$1.30	\$1.25	\$0.05	4.00 percent
August 30, 1963	\$1.25	\$1.00	\$0.25	25.00 percent
November 15, 1957	\$1.00	\$0.75	\$0.25	33.33 percent
August 1, 1952	\$0.75	\$0.65	\$0.10	15.38 percent
June 1, 1947	\$0.65	\$0.45	\$0.20	44.44 percent
February 8, 1943	\$0.45	\$0.33	\$0.12	36.36 percent
1920	\$0.33	\$0.28	\$0.05	17.86 percent
1919	\$0.28	\$0.21	\$0.07	33.33 percent

1918	\$0.21	\$0.16	\$0.05	31.25 percent
1916	\$0.16	-	-	-

Industrial Welfare Commission (IWC)

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10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 SOUTHERN DIVISION

13 TREVION SHERMAN, MONIQUE
14 CARPENTER, CHRISTOPHER
15 BOOKER, SHELBY VIZIO, KRISTY
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20 BRIAN MENDEZ, STORM
CARFANGNIA, SYLVIA BAUTISTA,
21 EDUARDO CASTILLO, DARREN
DELIZO, JANET VACA, JANICA
22 LACH, TRAVIS WEBB and SEAN
WAITER, each individually on their
23 own behalf and on behalf of all others
similarly situated,

24 Plaintiffs,

25 v.

26 AMAZON.COM SERVICES, INC., a
Delaware Corporation; and DOES 1
27 through 10, inclusive,

28 Defendant.

CASE NO. 8:19-cv-1329

**DECLARATION OF GINA DISTASO
IN SUPPORT OF DEFENDANT'S
NOTICE OF REMOVAL OF ACTION**

(Superior Court of California for the
County of Orange, Case No. 30-2019-
01074574-CU-OE-CXC)

1 I, Gina Distaso, hereby declare and state:

2 1. I am over the age of 18, and am competent to attest to the facts set forth
3 herein. Unless otherwise stated, the following facts are within my personal knowledge
4 and, if called and sworn as a witness, I could and would testify competently thereto.

5 2. I am currently employed by Amazon.com Services, Inc. ("Amazon") as
6 Regional Senior Human Resources Manager. I, along with others, cover Southern
7 California and Phoenix. In this role, I have been responsible for, among other things,
8 providing general human resources support to Amazon associates at all job levels at
9 various facilities in California. I have been employed by Amazon since February
10 2014. In my position as Regional Senior Human Resources Manager, I have access to
11 certain employment related-information as well as corporate records for Amazon.

12 3. Amazon is organized under the laws of Delaware and has its principal
13 place of business in Seattle, Washington.

14 4. Amazon is headquartered in Seattle, Washington. Amazon directs,
15 controls, and manages its business from Washington. Senior leadership of Amazon is
16 based in Washington.

17 5. Information maintained by Amazon reflects the following:

- 18 a. There were more than 100,000 non-exempt Amazon associates
19 employed in fulfillment centers in California by Amazon during the
20 period between June 6, 2015 to June 6, 2019.
- 21 b. Of these, more than 5,000 have been separated from Amazon
22 during the period between June 6, 2016 to June 6, 2019.
- 23

24 I declare under penalty of perjury that the foregoing is true and correct and that I
25 executed this Declaration on July 3, 2019, at Reno, Nevada.

26
27 
28 _____
Gina Distaso