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16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
17 **FOR THE COUNTY OF RIVERSIDE**

18 BRANDON VINSON, as an individual and  
19 on behalf of others similarly situated,

20 Plaintiff,

21 vs.

22 TOTAL PLACEMENT SOLUTIONS, LLC  
23 dba DECTON LI; ALBERTSONS  
24 COMPANIES, INC.; ALBERTSONS LLC;  
25 and DOES 1 through 10, inclusive,

26 Defendants.

CASE NO. RIC 1904979

**THIRD AMENDED CLASS ACTION  
COMPLAINT FOR DAMAGES FOR:**

- (1) **FAILURE TO PAY MINIMUM WAGES, LABOR CODE § 1194;**
- (2) **FAILURE TO PAY OVERTIME WAGES, LABOR CODE § 510;**
- (3) **FAILURE TO PROVIDE MEAL PERIODS, LABOR CODE § 226.7;**
- (4) **FAILURE TO PROVIDE REST PERIODS, LABOR CODE § 226.7;**
- (5) **FAILURE TO REIMBURSE, LABOR CODE § 2802;**
- (6) **UNLAWFUL DEDUCTIONS FROM WAGES, LABOR CODE § 221;**
- (7) **FAILURE TO PAY ALL WAGES DUE ON TERMINATION, LABOR CODE §§ 201-203;**
- (8) **VIOLATION OF LABOR CODE § 226 RELATING TO RECORD KEEPING;**
- (9) **IMPROPER WAGE STATEMENTS, LABOR CODE § 226; AND**
- (10) **CIVIL PENALTIES UNDER THE PRIVATE ATTORNEY GENERAL ACT OF 2004 (Labor Code §§2698, et. seq.)**
- (11) **UNFAIR BUSINESS PRACTICES**

Judge: Hon. David M. Chapman  
Dept: PS2

Complaint Filed: October 1, 2019

1 Plaintiff BRANDON VINSON (“Plaintiff”), hereby files this Third Amended Class Action  
2 Complaint against Defendants TOTAL PLACEMENT SOLUTIONS, LLC, dba DECTON LI;  
3 ALBERTSONS COMPANIES, INC., ALBERTSONS LLC, and DOES 1 through 10, inclusive  
4 (collectively “Defendants”) on behalf of himself and the class of current and former employees of  
5 Defendants who worked at the soup making facility at 14950 Innovation Drive, Riverside, California,  
6 during the period from four years prior to the filing of the initial Complaint in this action to the present.  
7 Plaintiff is informed and believes, and on the basis of that information and belief, alleges as follows:

8 **INTRODUCTION**

9 1. This action is brought by Plaintiff on behalf of all non-exempt similarly situated and  
10 aggrieved employees in California and challenges Defendants’ employment practices with respect to  
11 payment of wages and provisions for meal and rest periods applicable to non-exempt employees,  
12 including Defendants’ policies and practices of (a) failing to pay for every hour worked, including  
13 minimum wages, designated wages, and overtime; (b) failing to provide meal and rest breaks that  
14 comply with California law; (c) failing to pay premium wages and/or restitution for on-duty, missed,  
15 short, and/or late meal and rest breaks; (d) failing to reimburse and indemnify work related expenses  
16 and losses in the course of discharging official duties; (e) making unlawful deductions from aggrieved  
17 employees’ wages or requiring a reimbursement from aggrieved employees for any shortage,  
18 breakage, or loss that was not caused by a dishonest or willful act, or by gross negligence; (f) failing  
19 to maintain accurate employment records for aggrieved employees; (g) failing to provide accurate  
20 itemized pay stubs; and (h) failing to pay all wages owed upon termination.

21 2. Defendants have failed to pay for all hours worked including minimum wages,  
22 designated wages, and overtime. Specifically, but not exclusively, Defendant failed to pay Plaintiff  
23 and other non-exempt employees for time getting to assignments, for training time, for beginning and  
24 end of shift security check time, for time suffered and permitted by Defendants regarding early arrival  
25 at the factory and after passing by the security check location, and for other preliminary and post-  
26 liminary work. Additionally, as a result of the substantial workload placed on Plaintiff and other  
27 aggrieved employees, Defendant failed to provide compliant meal periods to Plaintiff and other non-  
28 exempt employees that relieved the employees of all duties. Defendant additionally failed to pay

1 premium pay for meal periods that were not provided.

2 3. Moreover, by failing to relinquish control over employees' job duties and  
3 responsibilities, Defendants have failed to provide employees a reasonable opportunity to take a break  
4 such that Plaintiff and employees are either unable to take a meal or rest break all together, and/or are  
5 unable to leave the premises, unable to take a duty-free meal or rest break, and/or are interrupted  
6 during their meal or rest break, and/or take a short or late meal or rest period. Defendants further  
7 failed to pay compensation or premium wages for on-duty, missed, short, and/or late meal and rest  
8 breaks.

9 4. In this action, Plaintiff, on behalf of himself and the putative class, seeks damages for  
10 Defendants' violations of the California Labor Code, including failure of Defendants to pay Plaintiff  
11 and aggrieved employees all wages due to them including, minimum wages and overtime for all hours  
12 worked (Labor Code §§ 510, 512, 558, 1174.5, 1193.5, 1193.6, 1194, 1194.2, 1194.5, 1197, 1197.1,  
13 1198, and Wage Order 7); failure to pay premium wages (Labor Code §§ 226.7, 512, 1194.5, and  
14 Wage Order 7); failure to reimburse and indemnify work related expenses (Labor Code §§ 1194.5,  
15 2802); for unlawful deductions from employees' wages (Labor Code §§221, 222 and 224 and IWC  
16 Wage Order 7-2001, section 8); failure to maintain accurate employment records (Labor Code §§ 226,  
17 1174, 1174.5, and 1194.5); failure to timely furnish accurate, itemized wage statements (Labor Code  
18 §§ 226, 226.3, 226.4, 1174, 1174.5, and 1194.5); and for failure to pay wages due on termination  
19 (Labor Code §§ 201-203).

20 5. In this action, Plaintiff, on behalf of himself and aggrieved employees, seeks penalties  
21 established by Labor Code section 2699, the Private Attorney General's Act ("PAGA") and other  
22 provisions in the Labor Code, against Defendants for their unlawful employment practices as  
23 described above.

24 6. The acts complained of herein have occurred, are presently occurring, and are expected  
25 to continue occurring, within the time period from four years prior to the filing of the initial Complaint  
26 in this action up to and through the time of trial for this matter (hereinafter, the "Relevant Time  
27 Period").

28 **PARTIES**

1 ***Plaintiff BRANDON VINSON***

2 7. Plaintiff BRANDON VINSON is an individual over the age of eighteen (18) and is  
3 now and/or at all relevant times mentioned in this Complaint was a resident and domiciliary of  
4 Riverside County, State of California. Mr. Vinson worked for Defendants as a non-exempt employee  
5 at a factory location in Riverside County. His employment ended on March 7, 2019.

6 ***Defendants***

7 8. Plaintiff is informed and believes, and based thereon alleges, that Defendant Total  
8 Placement Solutions, LLC dba Decton LI (“Decton LI”) is an unknown business entity with its  
9 principal place of business located in El Monte, California, that does business in the State of California,  
10 including in the County of Riverside, and employed Plaintiff and other similarly situated non-exempt  
11 employees as further defined herein.

12 9. Plaintiff is informed and believes and based thereon alleges that Defendant Albertsons  
13 Companies, Inc. was and is a Delaware corporation registered with the California Secretary of State  
14 and does business in the State of California, including in the County of Riverside, and employed  
15 Plaintiff and other similarly situated non-exempt employees as further defined herein.

16 10. Plaintiff is informed and believes and based thereon alleges that Defendant Albertsons  
17 LLC was and is a Delaware corporation registered with the California Secretary of State and does  
18 business in the State of California, including in the County of Riverside, and employed Plaintiff and  
19 other similarly situated non-exempt employees as further defined herein.

20 11. Plaintiff is informed and believes that Decton LI is a “labor contractor” as defined in  
21 Labor Code §2810.3(a)(1)(iii)(3) that provided Defendants Albertsons Companies, Inc. and  
22 Albertsons LLC with labor in its warehouses as defined in Labor Code section 200.

23 12. Plaintiff is informed and believes that Defendants Albertsons Companies, Inc. and  
24 Albertsons LLC employed more than 25 workers, were supplied more than 5 workers at a time by  
25 Decton LI, and constituted a “client employer” as defined in Labor Code §2810.3(1)(A).

26 13. Plaintiff is informed and believes that that Defendants are jointly liable for all acts set  
27 forth in this complaint under general joint employer liability and Labor Code Section 2810.3.  
28

1           14.     DOES 1 through 10 inclusive are now and/or at all times mentioned in this Complaint  
2 were, licensed to do business and/or actually doing business in the State of California. Plaintiff does  
3 not know the true names or capacities, whether individual, partner, or corporate, of DOES 1 through  
4 10, inclusive and for that reason, DOES 1 through 10 are sued under such fictitious names pursuant to  
5 California Code of Civil Procedure, section 474. Plaintiff will seek leave of court to amend this  
6 Complaint to allege such names and capacities as soon as they are ascertained. DOES 1 through 5 are  
7 believed to be business entities who were also co-employers of the Plaintiff and the aggrieved  
8 employees herein.

9           15.     Plaintiff is informed and believes and based thereon alleges that at all times herein  
10 mentioned, all Defendants, and each of them, were and are the agents, servants, employees, joint  
11 venturers, and/or partners of each of the other Defendants, and were, at all such times, acting within  
12 the course and scope of said employment and/or agency; furthermore, that each and every Defendant  
13 herein, while acting as a high corporate officer, director and/or managing agent, principal and/or  
14 employer, expressly directed, consented to, approved, affirmed and ratified each and every action  
15 taken by the other co-Defendant, as herein alleged and was responsible in whole or in part for the  
16 matters referred to herein.

17           16.     Plaintiff is informed and believes and based thereon alleges that at all times herein  
18 mentioned, all Defendants, and each of them, were and are the agents, servants, employees, joint  
19 venturers, and/or partners of each of the other Defendants, and were, at all such times, acting within  
20 the course and scope of said employment and/or agency; furthermore, that each and every Defendant  
21 herein, while acting as a high corporate officer, director and/or managing agent, principal and/or  
22 employer, expressly directed, consented to, approved, affirmed and ratified each and every action  
23 taken by the other co-Defendant, as herein alleged and was responsible in whole or in part for the  
24 matters referred to herein.

25           17.     Plaintiff is informed and believes and based thereon alleges that at all times herein  
26 mentioned, Defendants, and each of them, proximately caused Plaintiff, all others similarly situated  
27 and the general public to be subjected to the unlawful practices, wrongs, complaints, injuries and/or  
28 damages alleged in this Complaint.

1 18. Plaintiff is informed and believes and based thereon alleges that Defendants, and each  
2 of them, are now and/or at all times mentioned in this Complaint were members of and/or engaged in  
3 a joint venture, partnership and common enterprise, and were acting within the course and scope of,  
4 and in pursuit of said joint venture, partnership and common enterprise and, as such were co-employers  
5 of the Plaintiff and the putative class herein.

6 19. Plaintiff is informed and believes and based thereon alleges that Defendants, and each  
7 of them, at all times mentioned in this Complaint, concurred with, contributed to, approved of, aided  
8 and abetted, condoned and/or otherwise ratified, the various acts and omissions of each and every one  
9 of the other Defendants in proximately causing the injuries and/or damages alleged in this Complaint.

10 **JURISDICTION AND VENUE**

11 20. The California Superior Court has jurisdiction over this Class Action pursuant to Code  
12 of Civil Procedure § 382 and is consistent with Fed. R. Civ. P. 23(a), (b)(1), (b)(2), and (b)(3). The  
13 amount in controversy for Plaintiff is less than \$30,000, inclusive of compensatory damages, penalties,  
14 interest, and a pro-rata share of attorneys’ fees.

15 21. The California Superior Court has jurisdiction in the matter because the claims exceed  
16 the jurisdictional minimum of this court and Plaintiff is a resident of the state of California and  
17 Defendants perform substantial business in the State of California. Further, the issues herein are based  
18 on California statutes, specifically the Private Attorney General Act of 2004.

19 22. Venue is proper in the County of Riverside because Defendants transact substantial  
20 business in this County and Plaintiff’s claims arose in this County.

21 **FACTUAL ALLEGATIONS**

22 23. Defendant Decton LI is a staffing company that employed Plaintiff and similarly  
23 situated employees to work at a factory location in Riverside County, California for Defendants  
24 Albertsons Companies, Inc. and Albertsons LLC (collectively, “Albertsons”).

25 24. Plaintiff and the putative class were jointly employed by Defendants as non-exempt  
26 employees.

27 25. The primary work duties of Plaintiff included, among others, hourly paid factory work  
28 at a soup factory of Defendants engaged in line work.

1 26. Defendants failed to pay Plaintiff and other similarly situated employees for time  
2 getting to assignments, for training time, for beginning and end of shift security check time, for time  
3 suffered and permitted by Defendants regarding early arrival at the factory and after passing by the  
4 security check location, and for other preliminary and post-liminary work.

5 27. By failing to relinquish control over employees' job duties and responsibilities,  
6 Defendants failed to provide Plaintiff and aggrieved employees a reasonable opportunity to take a  
7 break such that Plaintiff and employees were either unable to take a meal or rest breaks all together,  
8 were unable to leave the premises during a meal or rest break, were unable to take a duty-free meal or  
9 rest breaks, were interrupted during their meal or rest breaks, and/or had to take a short or late meal or  
10 rest periods.

11 28. There were occurrences where Plaintiff and similarly situated employees reported  
12 missed, short, or late meal and rest breaks and/or Defendant knew that they incurred missed, short,  
13 and/or late meal and rest breaks and Defendants did not pay premium wages as a result.

14 29. Defendants required Plaintiff and similarly situated employees to incur necessary  
15 business expenses, including but not limited to the required use of personal mobile phones to receive  
16 assignments and schedules and to remain in contact with Defendants, required apparel, and other  
17 required tools and instrumentalities in the course of discharging official duties, but then did not  
18 reimburse them for all of these expenses.

19 30. There were occurrences where Defendants made unlawful deductions from Plaintiff's  
20 and similarly situated employees' wages or required reimbursement from Plaintiff and aggrieved  
21 employees for a shortage, breakage, or loss that was not caused by a dishonest or willful act, or by  
22 gross negligence.

23 **CLASS ACTION ALLEGATIONS**

24 31. **Class Definition:** The named individual Plaintiff brings this action on behalf of himself  
25 and the class pursuant to California Code of Civil Procedure § 382 and is consistent with Fed. R. Civ.  
26 P. 23(a), (b)(1), (b)(2), and (b)(3). The class consists of all non-exempt current and former employees  
27 of Dection LI who worked at the soup making facility at 14950 Innovation Drive, Riverside,  
28 California, during the period from October 1, 2015 to the present (collectively, the "Class"). Non-

1 exempt workers directly employed by Albertson's, and not Dection LI, are not included in the Class.

2 32. Numerosity: There are approximately 100 persons who are members of the Class and  
3 are so numerous that joinder of all members would be impractical, if not impossible. The identity of  
4 the members of the class is readily ascertainable by review of Defendants' records, including payroll  
5 records.

6 33. Plaintiff is informed and believes and based thereon alleges that Defendants uniformly  
7 administered corporate policies, procedures, and practices such that (a) class members were not paid  
8 for every hour worked, including minimum wages, designated wages, and overtime; (b) class members  
9 were not provided meal and rest breaks that comply with California law; (c) class members were not  
10 paid premium wages and/or restitution for on-duty, missed, short, and/or late meal and rest breaks; (d)  
11 class members were not reimbursed and indemnified for work related expenses and losses in the course  
12 of discharging official duties; (e) class members were subjected to unlawful deductions from their  
13 wages or required to make reimbursements for shortages, breakages, or losses that were not caused by  
14 a dishonest or willful act, or by gross negligence; (f) accurate employment records were not maintained  
15 for class members; (g) class members were not provided accurate itemized pay stubs; and (h) class  
16 members were not paid all wages owed upon termination.

17 34. Adequacy of Representation: The named Plaintiff is fully prepared to take all necessary  
18 steps to represent fairly and adequately the interests of the Class defined above. Plaintiff's attorneys  
19 are ready, willing and able to fully and adequately represent the Class and individual Plaintiff.  
20 Plaintiff's attorneys have prosecuted and settled wage-and-hour class actions in the past and currently  
21 have a number of wage-and-hour class actions pending in California courts.

22 35. Common Question of Law and Fact: There are predominant common questions of law  
23 and fact and a community of interest amongst Plaintiff and the claims of the class concerning  
24 Defendants, such as whether: (a) class members were paid for every hour worked, including minimum  
25 wages, designated wages, and overtime?; (b) class members were provided meal and rest breaks that  
26 comply with California law?; (c) class members were paid premium wages and/or restitution for on-  
27 duty, missed, short, and/or late meal and rest breaks?; (d) class members were reimbursed and  
28 indemnified for work related expenses and losses in the course of discharging official duties?; (e) class



1 members were subjected to unlawful deductions from their wages or required to make reimbursements  
2 for shortages, breakages, or losses that were not caused by a dishonest or willful act, or by gross  
3 negligence?; (f) accurate employment records were maintained for class members?; (g) class members  
4 were provided accurate itemized pay stubs?; and (h) class members were paid all wages owed upon  
5 termination?

6         36.     Typicality: The claims of Plaintiff are typical of the claims of all members of the Class.  
7 Plaintiff is a member of the Class and has suffered the alleged violations of Labor Code §§ 201-203,  
8 221, 222, 224, 226, 226.7, 510, 512, 558, 1174, 1174.5, 1193.5, 1193.6, 1194, 1194.2, 1194.5, 1197,  
9 1197.1, 1198, 2802, and the applicable wage order(s) issued by the IWC including IWC Wage Order  
10 No. 7-2001.

11         37.     The California Labor Code and Wage Order provisions upon which Plaintiff bases his  
12 claims are broadly remedial in nature. These laws and labor standards serve an important public  
13 interest in establishing minimum working conditions and standards in California. These laws and  
14 labor standards protect the average working employee from exploitation by employers who may seek  
15 to take advantage of superior economic and bargaining power in setting onerous terms and conditions  
16 of employment.

17         38.     The nature of this action and the format of laws available to Plaintiff and members of  
18 the Class identified herein make the Class action format a particularly efficient and appropriate  
19 procedure to redress the wrongs alleged herein. If each employee were required to file an individual  
20 lawsuit, the corporate Defendants would necessarily gain an unconscionable advantage since they  
21 would be able to exploit and overwhelm the limited resources of each individual plaintiff with their  
22 vastly superior financial and legal resources. Requiring each class member to pursue an individual  
23 remedy would also discourage the assertion of lawful claims by employees who would be disinclined  
24 to file an action against their former and/or current employer for real and justifiable fear of retaliation  
25 and permanent damage to their careers at subsequent employment.

26         39.     The prosecution of separate actions by the individual class members, even if possible,  
27 would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual  
28 class members against the Defendants and which would establish potentially incompatible standards

1 of conduct for the Defendants; and/or (b) adjudications with respect to individual class members which  
2 would, as a practical matter, be dispositive of the interest of the other class members not parties to the  
3 adjudications or which would substantially impair or impede the ability of the class members to protect  
4 their interests. Further, the claims of the individual members of the Class are not sufficiently large to  
5 warrant vigorous individual prosecution considering all of the concomitant costs and expenses.

6 40. Such a pattern, practice and uniform administration of corporate policy regarding  
7 illegal employee compensation described herein is unlawful and creates an entitlement to recovery by  
8 Plaintiff and the Class identified herein, in a civil action, for the unpaid balance of the full amount of  
9 unpaid premium wage compensation for missed meal and rest breaks pursuant to California Labor  
10 Code § 226.7 and IWC Wage Order No. 9-2001 §§ 11(D), 12 (B), unpaid minimum wages, all  
11 reimbursements owed and/or wages unlawfully deducted, applicable damages and penalties,  
12 reasonable attorney's fees, and costs of suit according to the mandate of California Labor Code §§  
13 218.5, 226, 226.2, 1194 and Code of Civil Procedure § 1021.5.

14 41. Proof of a common business practice or factual pattern, which the named Plaintiff  
15 experienced and is representative of, will establish the right of each of the members of the Plaintiff  
16 Class to recovery on the causes of action alleged herein.

17 42. The Plaintiff Class is commonly entitled to a specific fund with respect to the  
18 compensation illegally and unfairly retained by Defendants. The Plaintiff Class is commonly entitled  
19 to restitution of those funds being improperly withheld by Defendants. This action is brought for the  
20 benefit of the entire Class and will result in the creation of a common fund.

### 21 **FIRST CAUSE OF ACTION**

#### 22 **FAILURE TO PAY MINIMUM WAGES AND DESIGNATED RATES**

#### 23 **(Against All Defendants by Plaintiff and the Class)**

24  
25 43. Plaintiff incorporates by reference the allegations set forth above.

26 44. IWC Wage Order, No. 7 defines "hours worked" to mean "the time during which an  
27 employee is subject to the control of an employer, and includes all the time the employee is suffered  
28 or permitted to work, whether or not required to do so."

1           45.     Labor Code § 1182.12 and IWC Wage Order, No. 7-2001, § 4 formerly provided that  
2 on and after January 1, 2008, the minimum wage shall be not less than eight dollars (\$8.00) per hour.

3           46.     Labor Code § 1182.12 and IWC Wage Order, No. 7-2001, § 4 provide that on and after  
4 July 1, 2014, the minimum wage for all industries shall be not less than nine dollars (\$9) per hour, and  
5 on and after January 1, 2016, the minimum wage for all industries shall be not less than ten dollars  
6 (\$10) per hour.

7           47.     Labor Code § 1182.12 and IWC Wage Order, No. 7-2001, § 4 provide that on and after  
8 January 1, 2018, the minimum wage for all industries shall be not less than ten dollars (\$10) per hour,  
9 and on and after January 1, 2017, the minimum wage for all industries shall be not less than ten dollars  
10 and fifty cents (\$10.50) per hour.

11          48.     Labor Code § 1182.12 and IWC Wage Order, No. 7-2001, § 4 provide that on and after  
12 January 1, 2018, the minimum wage for all industries shall be not less than ten dollars and fifty cents  
13 (\$10.50) per hour, and on and after January 1, 2018, the minimum wage for all industries shall be not  
14 less than eleven dollars (\$11) per hour.

15          49.     Labor Code § 1194(a) provides in relevant part: “Notwithstanding any agreement to  
16 work for a lesser wage, any employee receiving less than the legal minimum wage [] is entitled to  
17 recover in a civil action the unpaid balance of the full amount of this minimum wage [], including  
18 interest thereon, reasonable attorney’s fees, and costs of suit.”

19          50.     Labor Code § 1194.2(a) provides in relevant part: “In any action under Section 1193.6  
20 or Section 1194 to recover wages because of the payment of a wage less than the minimum wage fixed  
21 by an order of the commission, an employee shall be entitled to recover liquidated damages in an  
22 amount equal to the wages unlawfully unpaid and interest thereon.”

23          51.     Labor Code § 1197 provides: “The minimum wage for employees fixed by the  
24 commission is the minimum wage to be paid to employees, and the payment of a less wage than the  
25 minimum so fixed is unlawful.”

26          52.     Defendant classified Plaintiff and members of the class as non-exempt and paid them  
27 on an hourly basis. Hours worked include, but are not limited to, all hours that an employee is  
28 permitted or suffered to work including, but not limited to, off-the-clock work that an employer either

1 knew or should have known that an employee was performing.

2 53. As a matter of policy and/or practice, Defendant routinely suffered or permitted  
3 Plaintiff and members of the class to work portions of the day during which they were subject to  
4 Defendants' control, but Defendants failed to compensate them.

5 54. Throughout the Relevant Time Period, Plaintiff, and members of the class, were subject  
6 to Defendants' uniform policy and/or practice of failing to pay minimum wages and/or designated  
7 rates for hours worked off-the-clock. As a result, Plaintiff and members of the class were routinely  
8 denied compensation for all hours worked.

9 55. Additionally, Defendant did not maintain adequate records of all wages earned, hours  
10 worked, and meal and rest breaks taken.

11 **SECOND CAUSE OF ACTION**

12 **FAILURE TO PAY OVERTIME WAGES**

13 **(Against All Defendants by Plaintiff and the Class)**

14 56. Plaintiff incorporates by reference the allegations set forth above.

15 57. Labor Code § 1194 provides that an employee receiving less than the legal overtime  
16 compensation is entitled to recover in a civil action the unpaid balance of the full amount of this  
17 minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and  
18 costs of suit.

19 58. Labor Code § 510(a) states: "Any work in excess of eight hours in one workday and  
20 any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh  
21 day of work in any one workweek shall be compensated at the rate of no less than one and one-half  
22 times the regular rate of pay for an employee." Labor Code § 510(a) further states: "Any work in  
23 excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of  
24 pay for an employee." Labor Code § 510(a) further states: "[A]ny work in excess of eight hours on  
25 any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate  
26 of pay of an employee."

27 59. Throughout the Relevant Time Period, Wage Order No. 7-2001 provided for payment  
28 of overtime wages equal to one and one-half (1 1/2) times an employee's regular rate of pay for all

1 hours worked over eight (8) hours per day and/or forty (40) hours in a workweek, and/or for payment  
2 of overtime wages equal to double the employee’s regular rate of pay for all hours worked in excess  
3 of twelve (12) hours in any workday and/or for all hours worked in excess of eight (8) hours on the  
4 seventh (7th) day of work in any one workweek.

5 60. Plaintiff and the class were entitled to overtime compensation for all hours worked in  
6 excess of the hours and time specified in the Wage Order, statutes and regulations identified herein,  
7 but Defendants failed to pay Plaintiff and the class such overtime compensation.

8 61. As a matter of policy and/or practice, Defendants routinely suffered or permitted  
9 Plaintiff and members of the class to work portions of the day during which they were subject to  
10 Defendants’ control and failed to properly compensate them.

11 62. Accordingly, Defendants failed to properly record the actual hours worked by Plaintiff  
12 and the class, and thus failed to pay overtime wages for the actual amount of overtime hours worked.

13 **THIRD CAUSE OF ACTION**

14 **FAILURE TO PROVIDE MEAL PERIODS**

15 **(Against All Defendants by Plaintiff and the Class)**

16 63. Plaintiff incorporates by reference the allegations set forth above.

17 64. At all times relevant hereto, Labor Code § 226.7 and IWC Wage Order, No. 7-2001, §  
18 11, required employers to authorize, permit, and provide a meal period of not less than thirty (30)  
19 minutes when the employee is completely relieved of all duty.

20 65. Plaintiffs and the members of the class did not waive their meal periods, by mutual  
21 consent with Defendants or otherwise. Plaintiff is informed and believes, and based thereon alleges,  
22 that Defendants failed to effectively communicate California meal period requirements to Plaintiff and  
23 members of the class.

24 66. Plaintiff is further informed and believes, and based thereon alleges, that as a matter of  
25 policy and/or practice, Defendants routinely failed to provide Plaintiff and members of the class, with  
26 meal periods during which they were relieved of all duties by requiring them to perform duties such as  
27 hourly paid factory work at a soup factory of Defendants engaged in line work.

28 67. Specifically, throughout the Relevant Time Period, Defendants regularly:

- a. Failed to provide Plaintiff and members of the class with a first meal period of not less than thirty (30) minutes during which they are relieved of all duty before working more than five (5) hours;
- b. Failed to provide Plaintiff and members of the class with a second meal period of not less than thirty (30) minutes during which they are relieved of all duty before working more than ten (10) hours per day; and
- c. Failed to pay Plaintiff and members of the class one hour of pay at their regular rate of compensation for each workday that a meal period was not provided; and
- d. Failed to accurately record all meal periods.

**FOURTH CAUSE OF ACTION**

**FAILURE TO PROVIDE REST PERIODS**

**(Against All Defendants by Plaintiff and the Class)**

68. Plaintiff incorporates by reference the allegations set forth above.

69. At all times relevant hereto, Labor Code § 226.7 and IWC Wage Order, No. 7-2001, § 12, required employers to authorize, permit, and provide a ten (10) minute paid rest for each four (4) hours of work, during which employees are relieved of all duty.

70. At all times relevant hereto, Labor Code § 226.7(b) and IWC Wage Order, No. 7-2001, § 12 required employers to pay one hour of additional pay at the regular rate of compensation for each employee and each workday that a proper rest period is not provided.

71. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to effectively communicate California rest period requirements to Plaintiff and members of the class. Plaintiff is further informed and believes and based thereon alleges that throughout the Relevant Time Period Defendants failed to provide rest periods.

72. Throughout the Relevant Time Period, Plaintiff and members of the class were routinely denied the rest breaks they were entitled to under California law.

73. Specifically, throughout the Relevant Time Period, Defendant regularly:

- a. Failed to provide paid rest periods of ten (10) minutes during which Plaintiff and members of the class were relieved of all duty for each four (4) hours of work and able

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to take rest periods within the middle of the shift;

b. Failed to pay Plaintiff and members of the class one (1) hour of pay at their regular rate of compensation for each workday that a rest period was not permitted.

**FIFTH CAUSE OF ACTION**

**FAILURE TO REIMBURSE ALL WORK-RELATED EXPENSES**

**(Against All Defendants by Plaintiff and the Class)**

74. Plaintiff incorporates by reference the allegations set forth above.

75. At all times relevant hereto, Labor Code §§ 1194.5 and 2802 required an employer to reimburse and indemnify all work related expenses and losses incurred by employees in the course of discharging official duties.

76. Throughout the Relevant Time Period, Defendants willfully and knowingly failed to reimburse and indemnify Plaintiff and members of the class for work related expenses and losses in the course of discharging official duties, including but not limited to the required use of personal mobile phones, required apparel, and other tools and instrumentalities.

**SIXTH CAUSE OF ACTION**

**UNLAWFUL DEDUCTIONS FROM EMPLOYEES' WAGES**

**(Against All Defendants by Plaintiff and the Class)**

77. Plaintiff incorporates by reference the allegations set forth above.

78. At all times relevant hereto, Labor Code §§221, 222, and 224 and IWC Wage Order 7-2001, section 8, require that an employer shall not make any deduction for wages or require reimbursement from an employee for any cash shortage, breakage, or loss of equipment unless it can be shown that said loss is caused by the employee's dishonest or willful act, or by his gross negligence.

79. Throughout the Relevant Time Period, Defendants unlawfully deducted Plaintiff and members of the class's wages and/or required reimbursements from Plaintiff and members of the class for shortages, breakages, or losses that were not caused by a dishonest or willful act, or by gross negligence.

**SEVENTH CAUSE OF ACTION**

**FAILURE TO PAY ALL WAGES DUE ON TERMINATION**

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**(Against All Defendants by Plaintiff and the Class)**

80. Plaintiff incorporates by reference the allegations set forth above.

81. At all times relevant hereto, Labor Code § 201 required an employer that discharges an employee to pay compensation due and owing to said employee immediately upon discharge. Labor Code § 202 requires an employer to pay an employee who quits any compensation due and owing to said employee within seventy-two (72) hours of an employee’s resignation. Labor Code § 203 provides that if an employer willfully fails to pay compensation promptly upon discharge or resignation, as required under Sections 201 and 202, then the employer is liable for waiting time penalties in the form of continued compensation for up to thirty (30) work days.

82. Defendants willfully and knowingly failed to pay Plaintiff and members of the class, upon termination of employment, all accrued compensation including payment of minimum wage compensation, agreed wages, overtime, and/or premium wages.

**EIGHTH CAUSE OF ACTION**

**FAILURE TO MAINTAIN ACCURATE EMPLOYMENT RECORDS**

**(Against All Defendants by Plaintiff and the Class)**

83. Plaintiff incorporates by reference the allegations set forth above.

84. At all times relevant hereto, Labor Code §§ 226, 1174, 1174.5, 1194.5 and Cal. Code Regs., tit. 8, § 11090 required employers to maintain accurate employment records.

85. As noted herein, throughout the Relevant Time Period, Defendants failed to maintain documentation of the actual hours worked each day by Plaintiff and members of the class, all wages earned, hourly rates applicable, and meal breaks taken. As such, Defendants failed to maintain accurate employment records.

**NINTH CAUSE OF ACTION**

**FAILURE TO PROVIDE ACCURATE, ITEMIZED WAGE STATEMENTS**

**(Against All Defendants by Plaintiff and the Class)**

86. Plaintiff incorporates by reference the allegations set forth above.

87. At all times relevant hereto, Labor Code § 226 and IWC Wage Order, No. 7-2001, § 7 required employers to maintain adequate employment records and provide employees with accurate



1 itemized wage statements showing gross wages, total hours worked, all applicable hourly rates worked  
2 during each pay period, the corresponding number of hours worked at each hourly rate, and meal  
3 breaks taken.

4 88. Wage statements provided to Plaintiff and members of the class by Defendants do not  
5 show all wages earned, all hours worked, or all applicable rates, in violation of Labor Code § 226,  
6 IWC Wage Order, No. 7-2001, § 7, and the UCL.

7 89. Moreover, Defendants did not maintain adequate records of all wages earned, hours  
8 worked and breaks taken.

9 **TENTH CAUSE OF ACTION**

10 **CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT, LAB.**

11 **CODE §§ 2698 *et seq.***

12 **(Against All Defendants by Plaintiff and Aggrieved Employees)**

13 90. Plaintiff incorporates by reference the allegations set forth above.

14 91. Pursuant to California Labor Code § 2698 *et seq.*, Plaintiff is entitled to act as a private  
15 attorney general to assess and recover civil penalties against Defendants on behalf of Plaintiff and all  
16 non-exempt persons employed by Decton who worked at the Albertsons soup making facility located  
17 at 14950 Innovation Drive, Riverside, California, from May 1, 2018 to the present, for violations of  
18 the California Labor Code .

19 92. In this case, Plaintiff, on behalf of himself and all other Aggrieved Employees, seeks  
20 relief for Defendants' unlawful employment policies, practices and procedures, which have resulted  
21 in the failure of Defendants to pay Plaintiff and members of the putative class all wages due to them  
22 including, minimum wages and overtime for all hours worked (Labor Code §§ 201.3, 510, 558, 1174.5,  
23 1193.5, 1193.6, 1194, 1194.2, 1194.5, 1197, 1197.1, 1198, and Wage Order 7); premium wages (Labor  
24 Code §§ 201.3, 226.7, 512, 1194.5 and Wage Order 7); penalties for failing to reimburse and indemnify  
25 work related expenses (Labor Code §§ 1194.5, 2802); penalties for unlawful deductions from  
26 employees' wages (Labor Code §§ 221, 222, and 224; IWC Wage Order 7-2001, section 8); penalties  
27 for failing to maintain accurate employment records (Labor Code §§ 226, 1174, 1174.5, 1194.5);  
28 penalties for failure to timely furnish accurate, itemized wage statements (Labor Code §§ 226, 226.3,

1 226.4, 1174, 1174.5, 1194.5, and 2810.5); and penalties for wages due weekly and/or on termination  
2 (Labor Code §§ 201-203, 201.3).

3 93. Plaintiff asserts claims on behalf of the following “Aggrieved Employees”:

4 a. Aggrieved Employee Group: All persons employed by Decton in non-exempt positions  
5 at the Albertsons soup making facility located at 14950 Innovation Drive, Riverside,  
6 California, who, at any time from May 1, 2018 to present, worked at the soup making  
7 facility.

8 b. Former Aggrieved Employee Group: All persons formerly employed by Decton in non-  
9 exempt positions at the Albertsons soup making facility located at 14950 Innovation  
10 Drive, Riverside, California, who, at any time from May 1, 2018 to present, worked at  
11 the soup making facility.

12 94. Pursuant to *Labor Code* § 2699.3, an aggrieved employee, may commence a civil  
13 action arising under *Labor Code* § 2699 after the following requirements have been met:

14 a. The aggrieved employee shall give written notice (hereinafter “Notice”) by  
15 certified mail to the Labor and Workforce Development Agency (hereinafter  
16 “Agency”) and the employer of the specific provisions of the Labor Code alleges  
17 to have been violated, including the facts and theories to support the alleges  
18 violation.

19 b. The agency shall notify the employer and the aggrieved employee or representative  
20 by certified mail that it does not intend to investigate the alleged violation within  
21 sixty (60) calendar days of the postmark date of the notice received. Upon receipt  
22 of that notice or if no notice is provided within sixty-five (65) calendar days of the  
23 postmark date of the notice, the aggrieved employee may commence a civil action  
24 pursuant to Section 2699.

25 95. Plaintiffs has complied with the procedures for bringing suit specified in California  
26 Labor Code Section 2699.3. Within the statutory time frame, Plaintiff, on behalf of himself and the  
27 other Aggrieved Employees, gave the required notice to the Labor and Workforce Development  
28 Agency (“LWDA”) and Defendant of the specific provisions of the California Labor Code alleged to

1 have been violated, including the facts and theories to support the alleged violations. Plaintiff also  
2 paid the \$75.00 fee to the LWDA pursuant to SB 836. More than sixty-five (65) days have passed and  
3 the LWDA has not responded to Plaintiff's letter. Furthermore, a copy of the original complaint of  
4 this action was provided to the LWDA. A copy of this Amended Complaint will be provided to the  
5 LWDA the same day this document is filed with the Superior Court.

6 **Penalties Authorized by PAGA**

7 96. Defendants violated Labor Code §§ 510, 1174.5, 1182.12, 1193.5, 1193.6, 1194,  
8 1194.2, 1194.5, 1197, 1197.1, 1198, and Wage Order 7-2001 when they failed to pay Plaintiff and  
9 other aggrieved employees for time getting to assignments, for training time, for beginning and end of  
10 shift security check time, for time suffered and permitted by Defendants regarding early arrival at the  
11 factory and after passing by the security check location, and for other preliminary and post-liminary  
12 work. As a matter of policy and/or practice, Defendants failed to compensate Plaintiff and other  
13 aggrieved employees for all work hours and thus, failed to pay minimum wages and overtime wages  
14 for all hours worked by Plaintiff and other aggrieved employees in violation of California law.

15 97. Defendants violated Labor Code §§ 226.7, 512, 1194.5, and IWC Wage Order No. 7-  
16 2001, section 11, by failing to provide Plaintiff and other aggrieved employees a meal period of at  
17 least 30 minutes when the work period is more than five hours and a second meal period of at least 30  
18 minutes when the work period is more than 10 hours. Defendants routinely failed to provide Plaintiff  
19 and aggrieved employees, with meal periods during which they were relieved of all duties. Similarly,  
20 IWC Wage Order No. 7-2001, § 12 requires employers to "authorize and permit" employees to take a  
21 10-minute rest break every four hours of work, during which they must be relieved of all duties.  
22 Defendants failed to do so, entitling Plaintiff and other aggrieved employees to a premium of one  
23 hour's worth of pay at the employee's regular rate for each day that Defendants failed to provide a  
24 meal or period, pursuant to Labor Code section 226.7(c). Defendants further failed to pay premium  
25 pay when a meal or rest break was reported late, missed, short, or on-duty in violation of the same  
26 Labor Code sections and failed to properly record meal periods.

27 98. Defendants violated Labor Code §§ 1194.5 and 2802 by failing to reimburse Plaintiff  
28 and other aggrieved employees and indemnify work related expenses and losses including but not

1 limited to the required use of personal mobile phones, required apparel and other tools and  
2 instrumentalities, in the course of discharging official duties.

3 99. Defendants violated Labor Code §§221, 222, and 224 and IWC Wage Order 7-2001,  
4 section 8 by making unlawful deductions from Plaintiff and other aggrieved employees' wages or  
5 requiring a reimbursement from aggrieved employees for any shortage, breakage, or loss that was not  
6 caused by a dishonest or willful act, or by gross negligence.

7 100. Defendants violated Labor Code §§ 226, 226.3, 226.4, 1174, 1174.5, and 1194.5 by  
8 knowingly and intentionally providing Plaintiff and other aggrieved employees with wage statements  
9 that, among others items required, do not show all applicable wage rates, the number of hours worked,  
10 and the applicable rate for those hours, and all wages earned.

11 101. Defendants violated Labor Code §§ 226, 1174, 1174.5, and 1194.5, and IWC Wage  
12 Order No. 7-2001 by failing to maintain documentation of the actual hours worked each day by  
13 Plaintiff and other aggrieved employees, all wages earned, hourly rates applicable, and meal breaks  
14 taken.

15 102. Defendants violated Labor Code §§ 201-203 and 201.3 by failing to timely pay all  
16 earned and unpaid wages, including unpaid minimum wage, during employment and at the time of  
17 separation from employment, for those aggrieved employees no longer employed by Defendants.

18 103. Plaintiff is entitled to recover 25% of any civil penalties assessed against Defendants  
19 for such violations, with the remaining 75% of the recover being paid to the Labor and Workforce  
20 Development Agency.

21 104. Accordingly, Plaintiff seeks to recover any and all civil penalties otherwise capable of  
22 being collected under the law, including any statutes applicable under section 2699.5, and any penalty  
23 provisions provided for by §§ 201.3, 203, 226(e), 226.3, 226.7, 256, , 1174.5, 1194, 1194.2(a), 1197.1,  
24 and 2699; CA Civil Code 3287(b); and Wage Order 7-2001.

25 105. Labor Code section 2699(g) also provides for the payment of reasonable attorneys' fees  
26 and costs to a prevailing party seeking recovery under the Private Attorney General Act. Accordingly,  
27 Plaintiff seeks to recover civil penalties, attorneys' fees, and costs in an amount to be proven at trial  
28 pursuant to any applicable provisions of the law.

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**ELEVENTH CAUSE OF ACTION**

**CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 17200, *ET SEQ.***

**(Against All Defendants by Plaintiff)**

106. Plaintiff hereby incorporates by reference each and every one of the allegations contained in the preceding paragraphs as if the same were fully set forth herein.

107. Defendants, and each of them, committed acts of unfair competition as defined by California Business and Professions Code section 17200, et. seq., by engaging in the following unlawful, unfair and fraudulent business acts and practices in the State of California:

- a. Failing to pay minimum wage compensation to Plaintiff and the members of the putative class for all hours worked;
- b. Failing to pay overtime to Plaintiff and the members of the putative class for hours worked over eight (8) in a day and forty (40) in a week;
- c. Failing and refusing to provide meal periods to Plaintiff and the members of the putative class;
- d. Failing and refusing to pay premium wages for on-duty, missed, short, or late meal periods;
- e. Failing and refusing to provide rest periods to Plaintiff and the members of the putative class;
- f. Failing and refusing to pay premium wages for missed, short, or late rest periods;
- g. Failing and refusing to provide accurate itemized wage statements to Plaintiff and the members of the putative class.

108. As a direct and proximate result of Defendants’ unlawful, unfair, and/or fraudulent acts and practices described herein, Defendants have received and continue to hold ill-gotten gains belonging to Plaintiff and the members of the putative class. As a direct and proximate result of Defendants’ unlawful business practices, Plaintiff and the members of the putative class have suffered economic injuries including, but not limited to, loss of minimum wage/designated rate/overtime compensation and compensation for missed meal and rest periods.

109. Through Defendants’ use of such unlawful, unfair, and/or fraudulent acts and practices,

1 Defendants have gained an unfair advantage over Defendants’ competitors.

2 110. Plaintiff and the members of the putative class seek full restitution on account of the  
3 economic injuries they have suffered, along with disgorgement of ill-gotten gains from Defendants as  
4 necessary and according to proof, to restore any and all monies withheld, acquired and/or converted  
5 by Defendant by means of the unlawful, unfair and fraudulent business practices complained of herein.

6 111. Plaintiff and the members of the putative class seek appointment of a receiver, as  
7 necessary, to oversee said restitution, including all wages earned and unpaid, including interest  
8 thereon.

9 112. Further, if Defendants are not enjoined from engaging of the unlawful, unfair and  
10 fraudulent conduct described above, Defendants will continue unabated in their conduct, which will  
11 result in continued irreparable injury to Defendants’ competitors and members of the public including,  
12 but not limited to, members of the putative class who currently work for Defendants, and for which  
13 there is no adequate remedy at law. Thus, Plaintiff and the members of the putative class request that  
14 the Court issue a preliminary and permanent injunction prohibiting Defendants from engaging in the  
15 foregoing conduct.

16 113. Plaintiff and the members of the putative class also request relief as described below.

17  
18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- 20 a. Damages according to proof;  
21 b. Civil penalties;  
22 c. Other penalties and fines permitted by law;  
23 d. Costs of suit;  
24 e. Injunctive Relief;  
25 f. Reasonable attorneys’ fees; and  
26 g. Such other relief as the Court deems just and proper.


27 **DEMAND FOR JURY TRIAL**

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Plaintiff, for himself and the Class, hereby demands a jury trial as provided by California law.

DATED: June 1, 2021

**CHRISTINA HUMPHREY LAW, P.C. AND  
THE LAW OFFICES OF PETER M. HART**

By:   
Christina A. Humphrey  
Peter M. Hart  
Attorneys for Plaintiff

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**PROOF OF SERVICE**

*Brandon Vinson v. Decton LI Staffing, Albertsons Company, et al*  
Case No.: RIC 1904979

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action. My business address is 236 West Portal Avenue, #185, San Francisco, CA 94127.

On June 23, 2021 I served the following document(s):

**1. THIRD AMENDED CLASS ACTION COMPLAINT**

On the following:

Peter M. Hart Attorney for Plaintiff  
LAW OFFICES OF PETER M. HART  
12121 Wilshire Blvd., Ste. 525  
Los Angeles, CA 90025  
hartpeter@msn.com

Jeffrey K. Brown, Esq. Attorney for Defendant Albertsons  
Ray E. Boggess, Esq.  
Tyler B. Runge, Esq.  
PAYNE & FEARS, LLP  
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jkb@paynefears.com  
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Shannon Marie Jenkins, Esq. Attorney for Defendant  
Janet L. Johnson Decton LI Staffing  
Cami Foss  
Treadway, Lumsdaine & Doyle, LLC  
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sjenkins@tldlaw.com  
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(VIA US MAIL) I caused such envelope(s) to be deposited in the mail at San Francisco, California with postage fully prepaid. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business.

(VIA OVERNIGHT DELIVERY) I caused to have served such document(s) by depositing them in the drop box at San Francisco, California, for priority overnight next day delivery.



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(VIA FACSIMILE) I caused such document(s) to be faxed to the persons identified with fax numbers listed.

(VIA PERSONAL SERVICE) I delivered such envelope(s) by hand to the offices of the addressee.

(VIA E-MAIL) I caused such document to be electronically transmitted to the above email address per the 4/17/2020 Judicial Council of California temporary Rule #12 mandate on electronic service

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on June 23, 2021.

Stefano Congedo  
Stefano Congedo