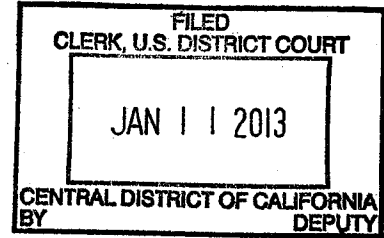


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24 UNITED STATES DISTRICT COURT
 25 CENTRAL DISTRICT OF CALIFORNIA

26 EVERARDO CARRILLO;
 27 FERNANDO CHAVEZ; ERIC
 28 FLORES; JOSE MARTINEZ ARCEO;
 JUAN CHAVEZ; ARMANDO
 ESQUIVEL; GUADALUPE RANGEL
 MENDOZA; and JOSE ENRIQUE
 TRUJILLO-VERGARA, for
 themselves and all others similarly
 situated and the general public,
 Plaintiffs,

v.

SCHNEIDER LOGISTICS, INC.;
 SCHNEIDER LOGISTICS TRANS-
 LOADING AND DISTRIBUTION,
 INC.; PREMIER WAREHOUSING
 VENTURES, LLC; ROGERS-
 PREMIER UNLOADING SERVICES,
 LLC; IMPACT LOGISTICS, INC.,
 WALMART STORES, INC., and
 DOES 2-15,
 Defendants.

Case No. CV 11-8557 CAS (DTBx)

THIRD AMENDED CLASS,
 COLLECTIVE, AND
 REPRESENTATIVE ACTION
 COMPLAINT FOR INJUNCTIVE
 AND DECLARATORY RELIEF,
 DAMAGES, RESTITUTION, AND
 CIVIL PENALTIES

(1) FEDERAL FAIR LABOR
 STANDARDS ACT;
 (2) CALIFORNIA LABOR CODE,
 CALIFORNIA WAGE ORDERS;
 (3) CALIFORNIA LABOR CODE
 PRIVATE ATTORNEYS GENERAL
 ACT, CALIFORNIA UNFAIR
 COMPETITION LAW

DEMAND FOR JURY TRIAL

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1 Plaintiffs Everardo Carrillo, Fernando Chavez, Eric Flores, Jose Martinez
2 Arceo, Juan Chavez, Armando Esquivel, Guadalupe Rangel Mendoza, and Jose
3 Enrique Trujillo-Vergara, on their own behalf, on behalf of the general public, and
4 on behalf of all similarly situated warehouse workers employed in Riverside County,
5 California, by defendants Walmart Stores, Inc. ("Walmart"), Schneider Logistics,
6 Inc. ("Schneider Logistics"); Schneider Logistics Transloading and Distribution Inc.
7 ("Schneider Transloading," which includes its predecessor American Port Services,
8 Inc., and, collectively with Schneider Logistics, "Schneider"); Premier Warehousing
9 Ventures, LLC ("Premier Warehousing"); Rogers-Premier Unloading Services, LLC
10 ("Premier Unloading," and, collectively with Premier Warehousing, "Premier"),
11 Impact Logistics, Inc. ("Impact"), and Does 2-15, allege as follows:

12 INTRODUCTION

13 1. This is a class, collective, and representative action brought under federal
14 and California law by eight individual warehouse workers, and over 200 other
15 similarly situated warehouse workers who filed consents to sue pursuant to 29
16 U.S.C. §216(b), whom defendants have forced to work long hours, under oppressive
17 workplace conditions, for legally inadequate pay, in defendants' Inland Empire
18 warehouses located in Eastvale (formerly Mira Loma), California ("the Mira Loma
19 warehouses"). Plaintiffs bring this action on behalf of themselves, others similarly
20 situated, and the general public to recover the wages that defendants stole from them
21 – and are continuing to steal – in violation of federal and California law. Plaintiffs
22 also seek redress for other consequences of defendants' unlawful conduct and
23 conspiracies, including defendants' wrongful scheme to hide and then cover up the
24 extent of their wrongdoing by failing to keep mandatory payroll records, falsifying
25 records of hours worked and compensation owed, and concealing, denying and/or
26 misrepresenting to the workers the amount of their earnings and on what basis these
27 earnings were calculated.
28

1 2. Like hundreds of other similarly situated warehouse workers whom
2 defendants employed during the applicable limitations period, plaintiffs spend their
3 workdays performing strenuous, unskilled physical labor in an environment where
4 the temperature often exceeds 90 degrees, filling orders, labeling boxes, sweeping
5 and cleaning warehouse facilities, breaking down pallet supports, and lifting boxes
6 on and off semi-trailer truck containers destined for Walmart distribution centers and
7 Walmart stores throughout the United States. Most of the warehouse workers are
8 immigrants; many do not speak English fluently; and large numbers of them have no
9 formal education beyond middle school.

10 3. At all relevant times, defendant Walmart has been the owner and/or lessee
11 of the Mira Loma warehouses; the owner of all the equipment used by, as well as the
12 goods unloaded and loaded by, plaintiffs and other workers in those warehouses; and
13 the sole customer of those warehouses. Although Walmart has hired contractors,
14 like defendant Schneider, to operate the Mira Loma warehouses on its behalf and as
15 its agent, at all relevant times, Walmart has directed and controlled the warehouse
16 operations, including the material terms and conditions of employment of plaintiffs
17 and all other similarly situated warehouse workers.

18 4. Defendants Impact and Premier are warehouse service contractors that
19 supply warehouse workers to warehouse operators like Schneider and warehouse
20 owners like Walmart. Defendant Impact first started supplying warehouse workers
21 to perform manual labor at the Mira Loma warehouses in or about 2001. When
22 defendant Schneider assumed operations of the Mira Loma warehouses in or about
23 2006, Walmart and Schneider chose to continue contracting with Impact to supply
24 warehouse workers. In or about 2009, Schneider began contracting with defendant
25 Premier to supply additional warehouse workers, with Walmart's knowledge and
26 approval; while continuing to contract with defendant Impact.

PARTIES

5. Plaintiff Everardo Carrillo is an unskilled warehouse worker who applied for employment as a warehouse worker and was employed by defendants Premier, Schneider, Walmart, and Does 2-5 to work at one or more of the Mira Loma warehouses from approximately November 2009 to approximately November 2010.

6. Plaintiff Fernando Chavez is an unskilled warehouse worker who applied for employment as a warehouse worker and was employed by defendants Walmart, Premier, Schneider and Does 2-5 to work at one or more of the Mira Loma warehouses from October 2010 to June 2011.

7. Plaintiff Eric Flores is an unskilled warehouse worker who applied for employment as a warehouse worker and has been employed by defendants Premier, Schneider, Walmart, and Does 2-5 to work at one or more of the Mira Loma warehouses since October 2010.

8. Plaintiff Jose Martinez Arceo is an unskilled warehouse worker who applied for employment as a warehouse worker and has been employed by defendants Premier, Schneider, Walmart, and Does 2-5 to work at one or more of the Mira Loma warehouses since October 2009.

9. Each of the four plaintiffs identified immediately above brings this lawsuit on his own behalf, on behalf of all similarly situated warehouse workers employed by defendants, and on behalf of all aggrieved employees and the general public pursuant to California Labor Code §2698 et seq. and California Business & Professions Code §17200 et seq. The proposed class that these four plaintiffs seek to represent includes all individuals employed as warehouse workers at one or more of defendants' Inland Empire warehouses in Eastvale (formerly Mira Loma), California, at any time during the applicable limitations periods, who were initially hired to perform that work by Premier ("Schneider-Premier class").

10. Plaintiffs Eric Flores and Jose Martinez Arceo also seek to represent a subclass that includes all individuals who were initially hired by Premier and

1 employed as warehouse workers at one or more of defendants' Inland Empire
2 warehouses in Eastvale (formerly Mira Loma), California, at any time from
3 November 18, 2011– when Premier announced that all then-employed Schneider-
4 Premier class members would be terminated on February 24, 2012 – through
5 February 25, 2012 – when Premier stopped operating at the Mira Loma warehouses
6 (“Schneider-Premier Mass Retaliation subclass”).

7 11. Plaintiff Juan Chavez was an unskilled warehouse worker who applied to
8 Impact for employment as a warehouse worker and was employed by Impact,
9 Schneider, Walmart, and Does 6-10 to work at one or more of the Mira Loma
10 warehouses from September 2011 to in or about December 2011.

11 12. Plaintiff Armando Esquivel is an unskilled warehouse worker who applied
12 to Impact for employment as a warehouse worker and was employed by Impact,
13 Walmart, and Does 6-10 to work at one or more of the Mira Loma warehouses for
14 approximately seven years, from 2004 to January 2011, and was also employed by
15 Schneider from in or about 2006, when Schneider began operating in the Mira Loma
16 warehouses, until January 2011.

17 13. Plaintiff Guadalupe Rangel Mendoza is an unskilled warehouse worker
18 who applied to Impact for employment as a warehouse worker and has been
19 employed by Impact, Walmart, and Does 6-10 to work at one or more of the Mira
20 Loma warehouses since March 2005, and has also been employed by Schneider since
21 Schneider began operating in the Mira Loma warehouses in or about 2006.

22 14. Plaintiff Jose Enrique Trujillo-Vergara is an unskilled warehouse worker
23 who applied to Impact for employment as a warehouse worker and has been
24 employed by Impact, Walmart, and Does 6-10 to work at one or more of the Mira
25 Loma warehouses since January 2003, and has also been employed by Schneider
26 since Schneider began operating in the Mira Loma warehouses in or about 2006.

27 15. Plaintiffs Juan Chavez, Armando Esquivel, Guadalupe Rangel Mendoza,
28 and Jose Enrique Trujillo-Vergara each brings this lawsuit on his own behalf, on

1 behalf of all similarly situated warehouse workers employed by defendants, and on
2 behalf of all aggrieved employees and the general public pursuant to California
3 Labor Code §2698 et seq. and California Business & Professions Code §17200 et
4 seq. The proposed class that these four named plaintiffs seek to represent includes
5 all individuals employed as warehouse workers at one or more of defendants' Inland
6 Empire warehouses in Eastvale (formerly Mira Loma), California, at any time during
7 the applicable limitations periods, who were initially hired to perform that work by
8 Impact ("Impact class").

9 16. Plaintiffs Armando Esquivel, Guadalupe Rangel Mendoza, and Jose
10 Enrique Trujillo-Vergara also seek to represent a subclass that includes all
11 individuals employed as warehouse workers at one or more of defendants' Inland
12 Empire warehouses in Eastvale (formerly Mira Loma), California, at any time before
13 Schneider assumed operations of those warehouses and during the applicable
14 limitations periods, who were initially hired to perform that work by Impact ("Pre-
15 Schneider Impact subclass").

16 17. Plaintiffs Juan Chavez, Armando Esquivel, Guadalupe Rangel Mendoza,
17 and Jose Enrique Trujillo-Vergara also each seek to represent a subclass that
18 includes all individuals employed as warehouse workers at one or more of
19 defendants' Inland Empire warehouses in Eastvale (formerly Mira Loma), California,
20 at any time after Schneider assumed operations of those warehouses and during the
21 applicable limitations periods, who were initially hired to perform that work by
22 Impact ("Schneider-Impact subclass").

23 18. In addition to the eight named plaintiffs, each of whom filed an individual
24 Consent to Sue under 29 U.S.C. §216(b), over 200 other similarly situated
25 warehouse workers have also filed Consents to Sue in this action.

26 19. Defendant Schneider Logistics, Inc. is a Wisconsin corporation that
27 operates in California and other states, principally operating warehouses and
28 providing warehouse and trucking related services on behalf of Walmart and other

1 customers. At all relevant times, defendant Schneider Logistics has done business in
2 California and committed the unlawful acts alleged in this Complaint in the Eastern
3 Division of the Central District of California.

4 20. Defendant Schneider Logistics Transloading and Distribution, Inc. is a
5 Wisconsin corporation that operates in California and other states, principally
6 operating warehouses and providing warehouse and trucking related services on
7 behalf of Walmart and other customers. Schneider Transloading includes its
8 predecessor American Port Services, which began operating the Mira Loma
9 warehouses for defendant Walmart and as its agent in or about early 2006.
10 Schneider Transloading is and American Port Services was, from about 2005
11 through in or about 2005 or 2006, a wholly owned subsidiary of Schneider Logistics.
12 At all relevant times, defendant Schneider Transloading has done business in
13 California and committed the unlawful acts alleged in this Complaint in the Eastern
14 Division of the Central District of California.

15 21. Defendant Schneider is independently liable for all of the violations
16 alleged herein on behalf of the Schneider-Premier class, the Schneider-Premier Mass
17 Retaliation subclass, and the Schneider-Impact subclass. Schneider is also jointly
18 and severally liable for all of those violations, along with Walmart, Premier and
19 Impact, as the joint employer of the plaintiff warehouse workers hired by Impact and
20 by Premier respectively; as a co-conspirator with Walmart, Impact and Premier; as
21 an aider and abetter of the violations committed by Walmart, Impact and Premier;
22 and as a principal on whose behalf Impact and Premier were acting as agents in
23 committing the violations alleged herein.

24 22. Defendant Premier Warehousing Ventures, LLC, is a North Carolina
25 corporation that operates in California and other states, providing a range of
26 warehouse services, including but not limited to freight loading, unloading, pallet
27 repair, and cleaning services, and that provides employees to work in Schneider
28 Logistics' warehouses and other warehouses in California. At all relevant times,

1 defendant Premier Warehousing has done business in California and committed the
2 unlawful acts alleged in this Complaint in the Eastern Division of the Central District
3 of California.

4 23. Defendant Rogers-Premier Unloading Services, LLC, is a North Carolina
5 corporation that operates in California and other states, providing a range of
6 warehouse services, including but not limited to freight loading and unloading, pallet
7 repair, and cleaning services, and that provides employees to work in Schneider
8 Logistics' warehouses and other warehouses in California. Premier Unloading is a
9 subsidiary of defendant Premier Warehousing, and is owned by defendant Premier
10 Warehousing and Rogers Unloading Services, Inc. At all relevant times, defendant
11 Premier Unloading has done business in California and committed the unlawful acts
12 alleged in this Complaint in the Eastern Division of the Central District of
13 California.

14 24. Defendant Premier is independently liable for all of the violations alleged
15 herein on behalf of the Schneider-Premier class and the Schneider-Premier Mass
16 Retaliation subclass. Premier is also jointly and severally liable for all of those
17 violations, along with Schneider, Walmart, and Does 2-5 and Does 11-15, as the
18 joint employer of the plaintiff warehouse workers hired by Premier; as a
19 co-conspirator with Schneider, Walmart, and Does 2-5 and Does 11-15; as an aider
20 and abetter of the violations committed by Schneider, Walmart, and Does 2-5 and
21 Does 11-15; and as an agent that has committed the violations alleged herein on
22 behalf of Schneider, Walmart, and Does 2-5 and Does 11-15.

23 25. Defendant Impact Logistics, Inc., is a Tennessee corporation that operates
24 in California and other states, providing a range of warehouse services, including but
25 not limited to freight loading, unloading, pallet repair, and cleaning services, and that
26 provides employees to work in Schneider Logistics' warehouses and other
27 warehouses in California. At all relevant times, defendant Impact Logistics, Inc. has
28

1 done business in California and committed the unlawful acts alleged in this
2 Complaint in the Eastern Division of the Central District of California.

3 26. Defendant Impact is independently liable for all of the violations alleged
4 herein on behalf of the Impact class, the Pre-Schneider Impact subclass, and the
5 Schneider-Impact subclass. Impact is also jointly and severally liable for all of those
6 violations, along with Schneider, Walmart, and Does 6-15, as the joint employer of
7 the plaintiff warehouse workers hired by Impact; as a co-conspirator with Schneider,
8 Walmart, and Does 6-15; as an aider and abetter of the violations committed by
9 Schneider, Walmart, and Does 6-15; and as an agent that has committed the
10 violations alleged herein on behalf of Schneider, Walmart, and Does 6-15.

11 27. Defendant Walmart Stores, Inc. is an Arkansas corporation that operates
12 in California and other states, principally operating large retail stores and overseeing
13 and operating, both directly and indirectly, an extensive supply network of trucking
14 and warehouse operations that provide a regular flow of goods to its retail stores and
15 distribution centers. At all relevant times, defendant Walmart has done business in
16 California and committed the unlawful acts alleged in this Complaint in the Eastern
17 Division of the Central District of California.

18 28. Defendant Walmart is independently liable for all of the violations alleged
19 herein on behalf of the Schneider-Premier class, including the Schneider-Premier
20 Mass Retaliation subclass, and the Impact class, including the Pre-Schneider Impact
21 subclass and the Schneider-Impact subclass. Walmart is also jointly and severally
22 liable for all of those violations, along with Schneider, Premier and Impact, as the
23 joint employer of the plaintiff warehouse workers directly hired by Impact and by
24 Premier respectively; as a co-conspirator with Schneider, Impact and Premier; as an
25 aider and abetter of the violations committed by Schneider, Impact and Premier; and
26 as the principal on whose behalf Schneider, Impact and/or Premier are and were
27 acting as agents in committing the violations alleged herein. Walmart is also liable
28 for all of the alleged harms caused to the Schneider-Premier class and the Schneider-

1 Impact subclass because Walmart was negligent in selecting, hiring, retaining,
2 supervising, and/or otherwise controlling Schneider as its warehouse operator, as it
3 knew or should have know that the workplace violations alleged herein were a direct
4 and foreseeable consequence of its selection of Schneider as the operator of its Mira
5 Loma warehouses, and its failure to require Schneider, through contract terms,
6 oversight, and economic incentives, to ensure compliance with the state and federal
7 laws alleged herein to have been violated.

8 29. The true names and capacities, whether individual, corporate, associate, or
9 otherwise, of defendants sued herein as Does 1 through 15, inclusive, are currently
10 unknown to plaintiffs, who therefore sue such defendants by such fictitious names.
11 Plaintiffs are informed and believe, and on that basis allege, that each of the
12 defendants designated herein as a Doe defendant is legally responsible in some
13 manner for the unlawful acts and omissions alleged herein. Plaintiffs will seek leave
14 of court to amend this Complaint to reflect the true names and capacities of the
15 defendants designated hereinafter as Doe defendants when such defendants'
16 identities become known.

17 30. Defendants Premier, Schneider, Walmart, and Does 2-5 at all relevant
18 times have been employers covered by the Fair Labor Standards Act, the California
19 Labor Code, and California Industrial Welfare Commission ("IWC") Wage Order
20 No. 9-2001. Those defendants, together with their co-conspirators, Does 11-15, are
21 jointly and severally responsible for all violations alleged herein. Together, Premier,
22 Schneider, Walmart, and Does 2-5 have jointly employed throughout the limitations
23 period, plaintiffs Everardo Carrillo, Fernando Chavez, Eric Flores, Jose Martinez
24 Arceo, and hundreds of other similarly situated warehouse workers, jointly dictating
25 material terms and conditions of those workers' employment and jointly controlling
26 material aspects of the employment relationship.

27 31. Defendants Impact, Schneider, Walmart, and Does 6-10 at all relevant
28 times have been employers covered by the Fair Labor Standards Act, the California

1 Labor Code, and IWC Wage Order No. 9-2001. Defendants Impact, Walmart, and
2 Does 6-10, together with their co-conspirators, Does 11-15, are jointly and severally
3 responsible for all violations alleged herein. Defendant Schneider, together with
4 defendants Impact, Walmart, and Does 6-15, is jointly and severally responsible for
5 all violations alleged herein, from the time that Schneider assumed operations of the
6 Mira Loma warehouses to the present. Impact, Walmart, and Does 6-10 have jointly
7 employed plaintiffs Juan Chavez, Armando Esquivel, Guadalupe Rangel Mendoza,
8 Jose Enrique Trujillo-Vergara, and hundreds of other similarly situated warehouse
9 workers, jointly dictating material terms and conditions of those workers'
10 employment and jointly controlling material aspects of the employment relationship,
11 throughout the limitations period. From the time that Schneider assumed operations
12 of the Mira Loma warehouses to the present, together with Impact, Walmart, and
13 Does 6-10, Schneider has jointly employed plaintiffs Juan Chavez, Armando
14 Esquivel, Guadalupe Rangel Mendoza, Jose Enrique Trujillo-Vergara, and hundreds
15 of other similarly situated warehouse workers, jointly dictating material terms and
16 conditions of those workers' employment and jointly controlling material aspects of
17 the employment relationship.

18 32. Defendants Schneider, Walmart, and Does 2-15 are also jointly and
19 severally liable for the violations alleged herein because they have aided and abetted
20 Premier and Impact in the commission of those violations, and/or because Premier
21 and Impact have committed those violations as agents of Schneider, Walmart, and
22 Does 2-15.

23 JURISDICTION AND VENUE

24 33. This action arises under the Fair Labor Standards Act ("FLSA"), 29
25 U.S.C. §201 et seq., and several California statutes and other provisions of law. This
26 Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §1331.
27 This Court has supplemental jurisdiction over the state law claims under 28 U.S.C.
28 §1367, because all state law claims derive from a common nucleus of operative fact

1 and are so related to the federal claims that they form part of the same case or
2 controversy under Article III of the United States Constitution.

3 34. Venue is proper in this judicial district pursuant to 29 U.S.C. §1391(b)
4 and (c). Venue is proper in this division because: the Court has personal jurisdiction
5 over the parties; one or more defendants may be found within this district and
6 division; one or more defendants resides within this district and division and all
7 defendants reside within this State; and a substantial part of the events or omissions
8 giving rise to plaintiffs' claims occurred within this district and division.

9 **GENERAL FACTUAL ALLEGATIONS**

10 **A. Plaintiffs Hired by Premier and Jointly Employed by Defendants**

11 35. Plaintiff Carrillo obtained his job with defendants after being referred by
12 another employee of Schneider, who told him to present himself for work at a
13 specific time and date on or about the first week of November 2009 at one of the
14 Mira Loma warehouses. Upon arriving at that warehouse at the appointed time,
15 Carrillo was directed by the security guard on duty to speak to Jose Rivas, an
16 employee of defendant Premier. Defendant Premier has conducted in the warehouse
17 lunchroom its business relating to its joint employment with Schneider and Walmart
18 of plaintiffs and similarly situated warehouse workers.

19 36. Plaintiffs Fernando Chavez, Flores, and Martinez also obtained their jobs
20 by presenting themselves at one of the Mira Loma warehouses where they spoke to
21 an employee of defendant Premier. These plaintiffs' applications, hiring, and
22 orientation were also processed on the premises of one of the Mira Loma
23 warehouses.

24 37. The paychecks of all four of these plaintiffs and members of the
25 Schneider-Premier class have borne the name of "Premier Warehousing Ventures,
26 LLC," but these plaintiffs and class members were directed by, and their work was
27 supervised throughout the period of their employment by, employees of Premier,
28 employees of Schneider, employees of Walmart, and, on information and belief,

1 Does 2-5. During all periods relevant herein, Walmart's and Schneider's employees
2 have directed and supervised the overall work of the warehouse, including assigning
3 the work of plaintiffs and members of the Schneider-Premier class; and all
4 defendants jointly dictated and controlled the terms and conditions of these workers'
5 employment.

6 **B. Defendants' Pay Practices for Members of the Schneider-Premier Class**

7 38. Throughout the period that Premier has operated in the Mira Loma
8 warehouses, defendants have knowingly and willfully failed to pay these plaintiffs
9 and members of the Schneider-Premier class of similarly situated warehouse workers
10 for all hours worked at the rates required by state and federal law. For example,
11 defendants have willfully failed to pay these plaintiffs and similarly situated
12 warehouse workers for mandatory on-duty time during which they were required to
13 report to the worksite and be physically present at defendants' warehouse while
14 waiting for specific tasks to be assigned to them. Defendants have also willfully
15 failed to pay these plaintiffs and similarly situated warehouse workers the overtime
16 premium required by state law when they worked more than eight hours per day, or
17 12 hours per day, or seven continuous days, or split shifts. During those weeks when
18 defendants caused plaintiffs and similarly situated workers to work seven-day
19 workweeks, defendants have required those workers to work more than six hours per
20 day and more than 30 hours per week.

21 39. Beginning when defendant Premier started operating at the Mira Loma
22 warehouses, in or about 2009, until approximately February 2010, defendants paid
23 plaintiffs Everardo Carrillo, Jose Martinez Arceo, and other members of the
24 Schneider-Premier class on an "hourly rate" basis. During that period, defendants
25 systematically violated federal and state wage and hour law by failing to compensate
26 members of the Schneider-Premier class for all hours worked at the legally required
27 minimum wage and overtime premium rates. Additionally, the paycheck stubs
28 provided by defendants to plaintiffs Carrillo and Martinez and other members of the

1 Schneider-Premier class did not identify the number of hours they worked during
2 each covered pay period, or the hourly rate that defendants paid them for that work.

3 40. In or about February 2010, defendants Premier, Schneider, Walmart, and
4 Does 2-5 unilaterally adopted a new pay scheme for members of the Schneider-
5 Premier class, which they describe as a group “piece rate” plan. At or about that
6 time, a Premier supervisor instructed plaintiffs Carrillo and Martinez and all other
7 members of the Schneider-Premier class of warehouse workers employed at the time
8 to attend a mandatory, unpaid meeting. At that meeting, defendants’ representative
9 informed all workers present, including plaintiffs Carrillo and Martinez, that
10 defendants were unilaterally changing their compensation system from an hourly-pay
11 plan to a group piece rate plan. Defendants’ representative specifically represented
12 that, under the new compensation plan, plaintiffs and members of the Schneider-
13 Premier class would each earn “much more money” than they were earning under the
14 hourly rate plan, for the same amount of work, a representation upon which the
15 workers reasonably relied. Plaintiff Carrillo asked whether he could continue to be
16 paid on the existing hourly rate basis instead of under the new “piece rate” plan.
17 Defendants’ representative responded that the workers had no choice, and that going
18 forward all compensation would be based on defendants’ new group “piece rate” pay
19 scheme.

20 41. At that meeting, and in conversations with new warehouse workers whom
21 defendants employed for the first time after that meeting, defendants’ representatives
22 described the group “piece rate” pay plan as based on a pro rata share, divided
23 equally among all members of the Schneider-Premier class employed at all of
24 defendants’ Mira Loma warehouses during a particular shift, of a per-container
25 “piece” amount for each semi-trailer truck container that was completely filled or
26 unloaded by the end of that shift. Under defendants’ group “piece rate” scheme, the
27 “piece rate” amount has varied, purportedly based on the size of the container and
28 other factors known only to defendants and never disclosed to plaintiffs or other

1 members of the Schneider-Premier class; but each “piece” has always been a
2 completely filled or unloaded semi-trailer truck container. The “group” among
3 which defendants claimed to allocate pro rata shares in each completed piece
4 supposedly included all members of the Schneider-Premier class employed by
5 defendants in their Mira Loma warehouses during the shift that was working when
6 the container was filled.

7 42. Under defendants’ purported group piece rate plan for the Schneider-
8 Premier class, defendants have claimed to assign a fixed “piece rate” amount to each
9 of the semi-trailer truck containers fully loaded or unloaded by all members of the
10 Schneider-Premier class working during a shift, to add those amounts together, and
11 then to divide the total by the number of all class members who worked on that shift
12 to determine the daily compensation paid to each class member. While defendants
13 have sometimes informed plaintiffs and other members of the Schneider-Premier
14 class of the amounts they earned during a particular day, defendants have refused to
15 disclose the purported underlying basis for calculating these wages, including the
16 number of truck containers fully filled or unloaded during a shift, the number of
17 class members who worked on the shift, and/or the piece rate or rates assigned to
18 each fully filled or unloaded truck container.

19 43. By defendants’ own description, this purported group piece rate system
20 does not cover any work that is unrelated to the process of placing cargo into or
21 removing cargo from a semi-trailer truck container. Nonetheless, throughout the
22 time that defendants used this purported group piece rate system, defendants have
23 instructed and required plaintiffs and other members of the Schneider-Premier class
24 to perform many work tasks that are unrelated to the class member’s labor in placing
25 cargo into or removing cargo from trailers, but have refused to pay any compensation
26 to members of the Schneider-Premier class for their performance of those unrelated
27 work tasks.
28

1 44. Throughout the time that defendants used this group “piece rate” plan,
2 defendants have not provided any compensation to plaintiffs or members of the
3 Schneider-Premier class of similarly situated warehouse workers for work on any
4 container that was not completely filled or unloaded by the end of the workers’ shift,
5 no matter how much time the workers spent filling or unloading on that container or
6 how little work remained for the next shift of workers to complete the work on that
7 container. Nor have defendants compensated plaintiffs or members of the
8 Schneider-Premier class for work on a shift when the worker did not complete the
9 shift, or for work that did not directly involve filling or unloading such containers.
10 Defendants also have not paid those workers for any additional work that defendants
11 also required, suffered, and permitted them to perform, such as being on mandatory
12 on-duty status while waiting for a specific task to be assigned, or performing tasks
13 such as cleaning the warehouse, repairing pallets, packing boxes or organizing
14 shelves, and other duties that did not involve physically placing cargo onto
15 containers or, when assigned to perform unloading, physically removing cargo from
16 such containers.

17 45. Individual worker productivity was never a factor in defendants’
18 calculation of the pay earned by plaintiffs and other members of the Schneider-
19 Premier class under defendants’ supposed group “piece rate” scheme. No matter
20 how much effort a worker devoted to filling or unloading a given truck container, if
21 that container was not completely filled or unloaded by the end of the worker’s shift,
22 the worker was not paid by defendants for any of his work on that container.
23 Similarly, no matter how productive a worker was in assembling pallets, sweeping
24 the warehouse, and completing other non-loading tasks, the worker’s pay was not
25 increased to reflect this productivity because, under the purported group piece rate
26 system used for the Schneider-Premier class, warehouse workers were not paid any
27 compensation at all to complete these tasks. Workers also earned less under
28 defendants’ scheme, for the same amount of work, if other workers employed during

1 that same shift at another one of the Mira Loma warehouses were relatively less
2 efficient or productive in completely filling or unloading containers during that shift,
3 regardless of the reason.

4 46. Defendants' warehouses are each large structures, each spanning roughly
5 the length and width of two city blocks. Workers employed by defendants in one
6 warehouse have not known and have not been able to determine exactly how many
7 workers defendants employ in another warehouse during a given shift, and have not
8 been able to accurately count or determine the number of other workers employed by
9 defendants in any of the warehouses, because of the size of those warehouses and
10 because workers are often inside containers or otherwise out of sight. Further, at
11 least one of the Mira Loma warehouses is located several miles away from the other
12 Mira Loma warehouses, foreclosing any possibility that class members could
13 observe the total number of workers on any shift or the amount of work performed.
14 Neither plaintiffs nor any member of the Schneider-Premier class have had any
15 ability to determine how many containers were filled or unloaded on any shift, how
16 many workers were employed by defendants on that shift, or how defendants
17 allocated the supposed group piece rate among the workers employed on that shift.
18 Defendants have had access to all that information, but defendants have deliberately
19 withheld that information from plaintiffs and from other members of the Schneider-
20 Premier class to further the conspiracies alleged herein and to mask and cover up
21 defendants' violations of state and federal law. On or about October 14, 2011,
22 members of the Schneider-Premier class demanded that defendants provide this
23 information to the members of the Schneider-Premier class currently working at the
24 Mira Loma warehouses, but defendants' representatives specifically reiterated their
25 refusal to provide this information.

26 47. Defendants have required plaintiffs and similarly situated warehouse
27 workers to perform substantial amounts of unpaid off-the-clock work every day in
28 violation of state and federal law. For example, defendants have had a regular policy

1 and practice of expressly directing, suffering, and permitting plaintiffs and similarly
2 situated warehouse workers to report to work at a specific time ready for duty, and to
3 perform uncompensated work before defendants assign those workers any of the so-
4 called “piece rate” work to perform. Because defendants’ group “piece rate”
5 compensation scheme has not compensated plaintiffs and similarly situated workers
6 for any work other than filling or, on occasion, unloading truck containers,
7 defendants have not paid these workers any compensation for performing other tasks
8 required by defendants. Because defendants’ group “piece rate” compensation
9 scheme also has not paid these workers for any work on containers whose filling has
10 not been completed by the end of the workers’ shift, defendants also have not paid
11 these workers any compensation for any work performed on any container that
12 remained unfilled – even slightly unfilled – at the end of the workers’ shift, or for
13 any work a worker performed on an uncompleted shift. The same is true for how
14 defendants apply their group “piece rate” compensation scheme to unloading work
15 performed by members of the Schneider-Premier class, who have not been paid any
16 compensation for work performed on any container that remained only partially
17 unloaded at the end of the workers’ shift. All of the unpaid work that defendants
18 have required, suffered, or permitted plaintiffs and similarly situated warehouse
19 workers to perform has benefitted defendants, enabling them to avoid having to pay
20 to have that same work performed by permanent workers recruited and paid directly
21 by Schneider, rather than by Premier.

22 48. Defendants falsely represented to members of the Schneider-Premier class
23 that those workers’ incomes would increase as a result of defendants’ change to the
24 group piece rate method of payment. Instead, defendants’ adoption of group piece
25 rate plan for paying plaintiffs and members of the Schneider-Premier classes caused
26 the pay of such warehouse workers to decrease sharply. Although defendants’
27 representatives falsely stated that plaintiffs and other members of the Schneider-
28 Premier class would make more money based on the group “piece rate” system, on

1 information and belief, defendants knew or should have known that workers'
2 effective hourly rates of pay would decrease dramatically, in part because defendants
3 would be able to – and did – defraud plaintiffs and similarly situated warehouse
4 workers by not paying them for many hours of work they performed that was neither
5 loading nor unloading work, by not recording all hours worked by the Schneider-
6 Premier class as required by state and federal law, by knowingly misrepresenting to
7 the workers how their compensation would be calculated and what compensation
8 they earned, and/or by hiding critical information from those workers about how
9 defendants calculated, and would calculate, those workers' pay.

10 49. Defendants have also falsely and fraudulently informed plaintiffs and
11 members of the Schneider-Premier class that defendants have based the workers'
12 pay, and defendants' calculation of that pay, on this group "piece rate" formula. But
13 defendants have not disclosed the components of that formula and have not provided
14 the critical information necessary for any worker to evaluate the accuracy of
15 defendants' representations about what wages are due, whether the supposed formula
16 was accurately applied, or whether the weekly compensation paid is greater than the
17 minimum wages dictated by state and federal law. Defendants have also routinely
18 failed to disclose to plaintiffs and members of the Schneider-Premier class the
19 underlying figures on which defendants' supposed calculations have been based,
20 including the piece rate or rates for each truck trailer filled, the number of truck
21 containers filled or unloaded in each covered warehouse each shift or each workday,
22 and the identity or number of the workers sharing in each group piece rate. On
23 information and belief, defendants' representations about the total amounts each
24 worker earned during each pay period – whether made orally the day after the work
25 was performed or as included in the lump sum compensation paid after the fact to the
26 workers – have been knowingly false, fraudulent, and inaccurate, because those
27 statements do not accurately reflect the actual number of truck trailers filled or
28 unloaded, the number of workers who filled them, and/or the "piece rates" assigned

1 to each truck trailer filled, and because the compensation defendants have actually
2 paid to plaintiffs and members of the Schneider-Premier class of similarly situated
3 workers has been less than the compensation that defendants have orally represented
4 to those workers that the workers earned.

5 **C. Plaintiffs Hired by Impact and Jointly Employed by Defendants**

6 50. Plaintiffs Juan Chavez, Armando Esquivel, Guadalupe Rangel Mendoza,
7 and Jose Enrique Trujillo-Vergara obtained their jobs at the Mira Loma warehouses
8 by applying for work with defendant Impact and being assigned to work at one of the
9 Mira Loma warehouses. The paychecks of plaintiffs Juan Chavez, Armando
10 Esquivel, Guadalupe Rangel Mendoza, Jose Enrique Trujillo-Vergara, and members
11 of the Impact class of similarly situated warehouse workers have borne and continue
12 to bear the name of "Impact Logistics, Inc.," but throughout the period of their
13 employment, these plaintiffs have been directed, and their work has been supervised,
14 by employees of Impact; by employees of Walmart; and on information and belief,
15 by Does 6-10; and, beginning when Schneider assumed operations of the Mira Loma
16 warehouses in or about 2006, by employees of Schneider as well.

17 51. At all relevant times, Walmart's employees have directed and supervised
18 the overall work of the warehouse, including assigning the work of plaintiffs and
19 members of the Impact class; and defendants Impact, Walmart, and Does 6-10 have
20 jointly dictated and controlled the terms and conditions of these workers'
21 employment.

22 52. At all times since Schneider assumed operations of the Mira Loma
23 warehouses and relevant herein, Schneider's employees have, together with
24 Walmart's employees, directed and supervised the overall work of the warehouse,
25 including assigning the work of plaintiffs and members of the Schneider-Impact
26 subclass; and all defendants have jointly dictated and controlled the terms and
27 conditions of these workers' employment.
28

D. Defendants' Pay Practices for Members of the Impact Class

53. Beginning when Impact started operating in the Mira Loma warehouses in or about 2001, and continuing when Schneider assumed operations of the Mira Loma warehouses in 2006, Impact, Walmart, Does 6-10, and Schneider have used a bogus piece rate system to compensate members of the Impact class for loading and unloading. Under this bogus piece rate system for the Impact class, defendants have claimed to pay members of the Impact class a set amount for each semi-trailer truck container fully filled or unloaded by an individual worker or that individual's team of unloaders. Under this system, if a member of the Impact class works with another class member to fill or unload a semi-trailer truck container, the two workers share in the piece rate assigned to filling or unloading that trailer. Defendants have represented to plaintiffs and other members of the Impact class that, under this piece rate system, workers are credited with a "piece" only when they have completed all of the loading or unloading work that must be done on a semi-trailer truck container. Under this system, defendants have compensated plaintiffs Juan Chavez, Armando Esquivel, Guadalupe Rangel Mendoza, Jose Enrique Trujillo-Vergara, and members of the Impact class based only on the number of semi-trailer truck containers that were completely filled or unloaded by the worker or his team of loaders or unloaders during the shift worked.

54. Under defendants' "piece rate" system for the Impact class, the piece rate amount has varied, purportedly based on the size of the semi-trailer truck container and/or on the number of boxes loaded into or unloaded from the containers, and other factors known only to defendants and not disclosed to plaintiffs or other members of the Impact class. Defendants have maintained rate sheets that purportedly reflect the piece rate for each truck, but at times relevant herein plaintiffs Juan Chavez, Armando Esquivel, Guadalupe Rangel Mendoza, Jose Enrique Trujillo-Vergara, and other members of the Impact class have not had access to these rate sheets except when employed as a lead worker. At times relevant herein,

1 defendants have prohibited lead workers from giving non-lead workers access to
2 these rate sheets, and have not disclosed to plaintiffs or other members of the Impact
3 class how these rate sheets were determined or other factors that affect their
4 compensation. For non-lead workers, the only source of information about the piece
5 rate compensation earned for work they performed has been from oral reports
6 provided by defendants after the class member has finished filling or unloading a
7 truck container and has reported that completion to defendants.

8 55. By defendants' own description, the purported piece rate system used to
9 compensate plaintiffs Juan Chavez, Armando Esquivel, Guadalupe Rangel Mendoza,
10 Jose Enrique Trujillo-Vergara, and other members of the Impact class has not
11 provided any compensation for any work that is unrelated to the process of
12 completely loading or unloading a semi-trailer truck container. Defendants have not
13 paid those workers for the work they perform on any container that was not
14 completely loaded or unloaded by the end of the worker's shift. Defendants also
15 have failed to pay plaintiffs Juan Chavez, Armando Esquivel, Guadalupe Rangel
16 Mendoza, Jose Enrique Trujillo-Vergara, and other members of the Impact class for
17 other work that defendants have required, suffered, or permitted them to perform,
18 such as being on mandatory on-duty status while waiting for a specific loading or
19 unloading job to be assigned, sorting and arranging boxes on specific pallets,
20 locating missing boxes or posts, and other duties that have not involved physically
21 loading boxes in or unloading boxes from the semi-trailer truck containers. All of
22 the unpaid work that defendants have required, suffered, or permitted plaintiffs Juan
23 Chavez, Armando Esquivel, Guadalupe Rangel Mendoza, Jose Enrique Trujillo-
24 Vergara, and other members of the Impact class to perform has benefitted
25 defendants, enabling them to avoid having to pay to have that same work performed
26 by more highly paid, direct-hire workers recruited and paid directly by Schneider
27 Logistics, rather than by Impact.

1 56. On information and belief, defendants knew or should have known that
2 the workers' effective hourly rates of pay under the purported piece rate system used
3 for the Impact class would result in a violation of federal and state minimum wage
4 and overtime standards, in part because defendants would be able to defraud and
5 have in fact defrauded plaintiffs Juan Chavez, Armando Esquivel, Guadalupe Rangel
6 Mendoza, Jose Enrique Trujillo-Vergara, and members of the Impact class by not
7 paying them for all work they performed, by knowingly misrepresenting to the
8 workers how their compensation would be calculated and what compensation they
9 earned, and/or by hiding critical information from them about the underlying factors
10 and formula used by defendants to calculate the wages actually paid to these workers
11 and the number of hours worked.

12 57. Defendants falsely and fraudulently informed plaintiffs Juan Chavez,
13 Armando Esquivel, Guadalupe Rangel Mendoza, Jose Enrique Trujillo-Vergara, and
14 members of the Impact class that defendants have calculated these workers' pay on
15 the basis of defendants' supposed per-container piece rate system. But defendants
16 have not disclosed the components of the formula and have not provided the critical
17 underlying information necessary for any worker to evaluate the accuracy of
18 defendants' representation about what wages are due, whether the supposed formula
19 was accurately applied, or whether the formula produces compensation consistent
20 with federal and state minimum wage and overtime pay requirements. Specifically,
21 defendants have failed to provide the workers with information about how the per-
22 container rates have been derived, including how the size of the semi-trailer truck
23 container, the number of boxes loaded or unloaded, and other factors that have
24 affected what the worker has actually been paid for loading or unloading a particular
25 semi-trailer truck container. On information and belief, defendants' representations
26 about the total amounts each worker earned during each pay period – whether made
27 orally after the workers completed a loading or unloading task or as included in the
28 lump sum compensation paid after the fact to the workers – have been knowingly

1 false, fraudulent, and inaccurate, because those statements have not accurately
2 reflected the actual number of boxes loaded or unloaded, and/or the number of semi-
3 trailer truck containers filled or emptied of cargo, and/or because the compensation
4 defendants have actually paid to plaintiffs Juan Chavez, Armando Esquivel,
5 Guadalupe Rangel Mendoza, Jose Enrique Trujillo-Vergara, and members of the
6 Impact class has been less than the compensation that defendants have orally
7 represented to those workers that the workers earned.

8 58. Beginning when defendant Impact began operating in the Mira Loma
9 warehouses, defendants have knowingly and willfully failed to pay plaintiffs Juan
10 Chavez, Armando Esquivel, Guadalupe Rangel Mendoza, and Jose Enrique Trujillo-
11 Vergara, and members of the Impact class of similarly situated warehouse workers
12 for all hours worked at the rates required by state and federal law. For example,
13 defendants have willfully failed to pay plaintiffs Juan Chavez, Armando Esquivel,
14 Guadalupe Rangel Mendoza, and Jose Enrique Trujillo-Vergara and similarly
15 situated warehouse workers for mandatory on-duty time during which they were
16 required to report to the worksite and to be physically present at defendants'
17 warehouse while waiting for specific tasks to be assigned to them. Defendants have
18 also willfully failed to pay these plaintiffs and similarly situated warehouse workers
19 the overtime premium required by state law when they have worked more than eight
20 hours per day, or 12 hours per day, or seven continuous days, or split shifts. During
21 those weeks when defendants have caused these plaintiffs and similarly situated
22 workers to work seven-day workweeks, defendants have required those workers to
23 work more than six hours per day and more than 30 hours per week.

24 59. During the limitations period, defendants Impact, Schneider, Walmart,
25 and Does 6-10 have sometimes required warehouse workers hired by Impact to
26 perform "flow work," which consists of transferring boxes that move through the
27 warehouse but are not stored at the warehouse, and have purported to compensate
28 plaintiffs and members of the Impact class for such flow work on an hourly basis.

1 Job duties related to flow work include, but are not limited to, constructing pallets
2 and pallet racks, placing boxes onto pallets, and labeling boxes. However,
3 defendants have systematically violated federal and state wage and hour law by
4 failing to compensate plaintiffs and other members of the Impact class who have
5 performed flow work for all hours worked at the legally required minimum wage and
6 overtime premium rates.

7 60. During the limitations period, including but not limited to an
8 approximately ten-month period in 2008, defendants Impact, Schneider, Walmart,
9 and Does 6-10 have sometimes required warehouse workers hired by Impact to
10 perform loading work but have compensated them on an hourly basis instead of a
11 piece rate basis. Defendants have systematically violated federal and state wage and
12 hour law by failing to compensate plaintiffs and other members of the Impact class
13 who were performing loading work on an hourly basis for all hours worked at the
14 legally required minimum wage and overtime premium rates.

15 **E. Defendants' Failure to Record and Report Accurate Hours Worked and**
16 **Production Information for Purported Piece Rates**

17 61. Defendants, and each of them, have failed to create accurate records of the
18 number of hours worked by plaintiffs and members of the Schneider-Premier and
19 Impact classes.

20 62. Throughout the time that Premier operated in the Mira Loma warehouses,
21 including during the period that defendants Schneider, Walmart, and Premier paid
22 plaintiffs Carrillo and Martinez and similarly situated warehouse workers on an
23 hourly basis, defendants Schneider, Walmart, and Premier did not record complete or
24 accurate information about the number of hours worked by plaintiffs and members of
25 the Schneider-Premier class.

26 63. In and after February 2010, defendants Schneider and Premier directed
27 plaintiffs Carrillo and Martinez and other members of the Schneider-Premier class on
28 every shift to sign their names on a blank sign-in form, but not to enter any other

1 information such as the time work began, the time work ended, or any break time
2 taken. Defendants Schneider and Premier then directed Premier's "lead" employees
3 or other supervisors to fill in the blank spaces for each warehouse worker, and to
4 input false starting, stopping, and/or break times, a number purporting to record the
5 total hours worked, and/or similar notations that defendants knew and intended
6 would significantly understate the number of hours each worker actually worked
7 under California and federal law.

8 64. Throughout the time that Premier operated in the Mira Loma warehouses,
9 defendants Schneider, Walmart, and Premier failed to provide plaintiffs and
10 members of the Schneider-Premier class with complete or accurate information about
11 the hours they worked, the number of pieces they completed, the hourly rate or piece
12 rate they earned, their overtime hours and overtime pay, or other legally mandated
13 information.

14 65. Throughout the applicable limitations period, defendants Schneider,
15 Walmart, and Impact have maintained time records that significantly understate the
16 number of hours actually worked by plaintiffs Juan Chavez, Armando Esquivel,
17 Guadalupe Rangel Mendoza, Jose Enrique Trujillo-Vergara, and other members of
18 the Impact class and Schneider-Impact subclass. Defendants Schneider, Walmart,
19 and Impact have not recorded complete or accurate information about the number of
20 hours worked by plaintiffs and members of the Impact class and Schneider-Impact
21 subclass. Defendants Schneider, Walmart, and Impact have failed to provide
22 plaintiffs and members of the Impact class and Schneider-Impact subclass with
23 complete or accurate information about the hours they worked, the number of pieces
24 they completed, the hourly rate or piece rate they earned, their overtime hours and
25 overtime pay, or other legally mandated information.

26 66. Plaintiffs and other members of the Schneider-Premier and Impact classes
27 have requested that defendants provide them with accurate information of the wages
28 they have earned and the basis for those wages. Members of the Schneider-Premier

1 class frequently asked their supervisors to tell them how much they actually earned.
2 Defendants' representatives often refused to respond to such inquiries altogether, but
3 when a response was given, defendants simply stated a dollar amount that defendants
4 represented was the per-worker share of the group piece rate on the worker's shift for
5 the prior day or for two days before, based on the number of containers filled by all
6 workers employed on that shift. When plaintiff Fernando Chavez requested that
7 defendants produce written documentation of the hours he worked and other
8 mandatory pay records, defendants refused to provide any responsive documents.
9 Similarly, members of the Impact class frequently asked their supervisors for
10 information about the wages earned unloading a particular semi-trailer truck
11 container or group of containers and received oral reports about what compensation
12 would be paid for that work. When plaintiffs and other members of the
13 Schneider-Premier and Impact classes compared the dollar amounts that defendants
14 represented they had earned with the dollar amounts they were actually paid on their
15 next pay check, those workers repeatedly discovered that defendants actually paid
16 them considerably less than the amounts defendants had represented the workers had
17 earned.

18 **F. Defendants' Failure to Provide Mandatory Meal and Rest Breaks**

19 67. Defendants Premier, Schneider, Walmart, and Does 2-5 have had a policy
20 or practice of not authorizing or permitting plaintiffs Carrillo, Martinez, Flores, and
21 Fernando Chavez and other members of the Schneider-Premier class to take all
22 legally mandated meal periods. On many occasions, defendants' supervisors have
23 affirmatively instructed these plaintiffs and other members of the Schneider-Premier
24 class not to take meal periods. Through the implementation of these practices,
25 defendants Premier, Schneider, Walmart, and Does 2-5 have failed to provide these
26 plaintiffs and other members of the Schneider-Premier class their first meal break as
27 required under California law.
28

1 68. Defendants Premier, Schneider, Walmart, and Does 2-5 have had a policy
2 and practice of not providing plaintiffs Carrillo, Martinez, Flores, and Fernando
3 Chavez and other members of the Schneider-Premier class with all second meal
4 breaks that defendants are required to provide to workers on shifts of 10 hours or
5 more.

6 69. Defendants Impact, Schneider, Walmart, and Does 6-10 have had a policy
7 and practice of not providing plaintiffs Juan Chavez, Armando Esquivel, Guadalupe
8 Rangel Mendoza, Jose Enrique Trujillo-Vergara, and other members of the Impact
9 class with all legally-mandated off-duty meal breaks, allowing time off from
10 continuous unloading work only when there are no semi-trailer truck containers
11 present and ready for unloading.

12 70. Defendants have not paid plaintiffs and other members of the
13 Schneider-Premier and Impact classes the additional hour of pay required by
14 California Labor Code §226.7 for any meal break that defendants failed to provide,
15 or prevented, discouraged, or dissuaded those workers from taking.

16 71. Defendants Premier, Schneider, Walmart, and Does 2-5 have had a policy
17 and practice of not providing plaintiffs Carrillo, Martinez, Flores, and Fernando
18 Chavez, and other members of the Schneider-Premier class with all legally mandated
19 paid rest breaks.

20 72. Defendants Impact, Schneider, Walmart, and Does 6-10 have had a policy
21 and practice of not providing plaintiffs Juan Chavez, Armando Esquivel, Guadalupe
22 Rangel Mendoza, and Jose Enrique Trujillo-Vergara, and other members of the
23 Impact class with all legally mandated paid rest breaks, allowing time off from
24 continuous unloading work only when there are no semi-trailer truck containers
25 present and ready for unloading.

26 **G. Defendants' Failure to Pay for Mandatory Reporting and Split Shifts**

27 73. Defendants have routinely required a greater number of their jointly
28 employed warehouse workers to report for duty each day and each shift than the

1 number of workers whom defendants need to perform the work that defendants have
2 available to be performed on that particular day and shift. At the start of a shift,
3 defendants have sent all unneeded workers home without pay, including without the
4 reporting pay required by IWC Wage Order No. 9-2001 §5(A), despite having
5 required those workers to report for duty ready to work. Defendants also have not
6 compensated workers who worked two shifts that were interrupted by a non-paid
7 working period for an extra hour of work as required by IWC Wage Order No. 9-
8 2001 §4(C).

9 74. During the course of their employment for defendants, plaintiffs and other
10 members of the Schneider-Premier and Impact classes have complied with
11 defendants' requirements to report for duty each day at a designated time, but
12 defendants have failed to furnish plaintiffs and other members of the Schneider-
13 Premier and Impact classes with at least half of their usual or scheduled days work,
14 and have sent those workers home without the required pay for the time they spent
15 reporting to work, in violation of IWC Wage Order No. 9-2001 §5(A).

16 75. During the course of their employment for defendants, plaintiffs and other
17 members of the Schneider-Premier and Impact classes have been required and/or
18 scheduled to work two shifts during a single day. Although the shifts were
19 interrupted by non-paid working period of one or more hours, such workers have not
20 been paid for an extra hour of work as required by IWC Wage Order No. 9-2001
21 §4(C).

22 **H. Defendants' Retaliation Against All Plaintiffs and Class Members**

23 76. During the period of time defendants' supposed "piece rate"
24 compensation schemes have been in effect, defendants have responded to workers
25 who questioned their pay or complained about defendants' unlawful practices by
26 denying them work, issuing disciplinary warnings or other threats, sending the
27 complaining workers home mid-shift and therefore denying them all pay for work
28 performed that day because the workers did not complete the shift, or terminating or

1 threatening to terminate them. Defendants have done so to punish and retaliate
2 against those who question or complain about defendants' unlawful practices and to
3 dissuade plaintiffs and similarly situated warehouse workers from questioning or
4 complaining about defendants' practices.

5 77. For example, when plaintiff Fernando Chavez complained about the
6 amount he was paid, based on his belief that defendants were not paying him the
7 amount he was promised for the work he performed, defendants responded by
8 refusing to give him any work the following day. Plaintiff Flores witnessed that
9 workers who complained about pay were either sent home or were not called to work
10 the next day. Plaintiff Flores was also present when a worker complained about
11 underpayment of wages and was punished by being sent home without work for a
12 week. Plaintiff Carrillo repeatedly saw workers sent home who complained, and
13 when it happened mid-shift, the workers received no pay for the entire day. Plaintiff
14 Martinez witnessed workers who complained being deprived of work hours as
15 punishment for questioning their pay.

16 78. During 2011, plaintiff Fernando Chavez repeatedly complained to
17 defendants that they were denying him breaks he was entitled to receive and that
18 defendants were improperly assigning him to perform sweeping, order filling, and
19 other work for which he was provided with no compensation under defendants'
20 purported group "piece rate" scheme used for the Schneider-Premier class. On or
21 about June 16, 2011 – the day after a Schneider Logistics supervisor issued a public
22 order to a Schneider-Premier class member to perform certain non-loading work – a
23 Premier lead employee named Luis Lopez informed plaintiff Fernando Chavez and
24 other members of the Schneider-Premier class that warehouse workers could be
25 terminated by Schneider if a Schneider supervisor saw that they were not constantly
26 working while they were present in the Mira Loma warehouse. Plaintiff Fernando
27 Chavez and Baltazar Zavala, a Schneider-Premier class member, questioned this rule
28 and asked whether Schneider had the authority to fire them. Schneider management

1 addressed these plaintiffs' questions in the presence of many other members of the
2 Schneider-Premier class, advising them that Schneider management personnel had
3 the authority to assign any tasks and to terminate any worker in the warehouse, and
4 that Schneider would terminate any worker who refused to accept this authority.
5 Later that day, in retaliation for these Schneider-Premier class members' questions
6 about and opposition to defendants' practices, defendants terminated plaintiff
7 Fernando Chavez and class member Baltazar Zavala, advising them that their
8 terminations were demanded and required by Schneider management personnel.

9 79. On October 12, 2011, the California Division of Labor Standards
10 Enforcement ("DLSE") conducted an unannounced inspection of the Mira Loma
11 warehouses, during which investigators uncovered significant recordkeeping
12 violations for which administrative citations were issued. Plaintiffs filed the original
13 complaint in this action on October 17, 2011. On October 31, 2011, the United
14 States District Court, Central District of California, ("the Court") issued a temporary
15 restraining order ("TRO") against Premier and Impact imposing requirements for
16 recordkeeping and issuing corrected wage statements. On November 9, 2011, the
17 Court ordered the defendants then named in this lawsuit to show cause why they
18 should not be restrained and enjoined by a preliminary injunction pending trial as
19 described in the TRO. On December 7, 2011, the Court granted a preliminary
20 injunction against those defendants requiring them to keep accurate records and to
21 abide by the requirements of state and federal labor laws.

22 80. On October 19, 2011, two days after this lawsuit was filed, Schneider's
23 management called a mandatory meeting of about 25 employees, at which a
24 Schneider manager threatened retaliation against workers who supported the lawsuit.
25 On October 21, 2011, Premier sent a letter to Schneider stating that Premier "had
26 come to believe" that it was "unable to sustain its work" under "the present terms" of
27 its April 2011-April 2013 labor services contract with Schneider, but that Premier
28 would "be glad to discuss new arrangements." Schneider did not attempt to

1 renegotiate Premier's contract and instead negotiated with a different contractor to
2 replace Premier; this response was contrary to Schneider's past practice. Schneider
3 never offered Premier the higher contract rates it eventually agreed to pay the
4 replacement contractor, despite Premier's offer to "discuss other arrangements."
5 Schneider also refused to retain or arrange for the replacement contractor to retain
6 the existing experienced workforce that had already been trained and vetted by
7 Premier, even though doing so would be more efficient. On November 18, 2011,
8 Premier distributed a termination letter to Schneider-Premier class members then
9 working in the Mira Loma warehouses, notifying the workers that they would be
10 "separated from employment with Premier on or about February 24, 2012," and that
11 none would be rehired by Premier to work at other warehouses. On December 22,
12 2011, plaintiffs filed a motion for preliminary injunction seeking to enjoin this
13 retaliatory mass firing of workers and for provisional class certification, which the
14 Court granted on January 30, 2012. Schneider chose to comply with this preliminary
15 injunction order by transferring the Schneider-Premier class members to its own
16 payroll. Premier ceased acting as a labor services contractor for Schneider and
17 Walmart at the Mira Loma warehouses as of February 24, 2012.

18 81. After October 17, 2011, when this lawsuit was filed, defendants
19 Schneider, Walmart, and Does 2-15 began transferring work from Impact to other
20 labor contractor(s), including a contractor named Select, in retaliation against the
21 Impact class members' involvement in this lawsuit and/or cooperation with the
22 DLSE investigation.

23 **I. Summary of Defendants' Violations of All Plaintiffs' Rights**

24 82. Before approximately February 2010, defendants Premier, Schneider,
25 Walmart, and Does 2-5 violated federal and state wage and hour law by failing to
26 pay members of the Schneider-Premier class for all hours worked and for all
27 overtime hours at the legally required overtime premium rates, among other
28 violations.

1 83. Beginning in or about February 2010, defendants Premier, Schneider,
2 Walmart, and Does 2-5 have applied their purported group piece rate pay scheme in
3 a manner that has deprived plaintiffs and all members of the Schneider-Premier class
4 of the minimum wages, overtime, and other premium pay required by law.

5 84. Defendants Impact, Walmart, and Does 6-10, starting when Impact began
6 operating in the Mira Loma Warehouses, and defendant Schneider, when Schneider
7 assumed operations of the Mira Loma Warehouses, have applied their purported
8 piece rate pay scheme in a manner that has deprived plaintiffs and all members of the
9 Impact class of the minimum wages, overtime, and other premium pay required by
10 law. To the extent that defendants have paid members of the Impact classes on an
11 hourly basis for certain work performed, like flow work and some loading work,
12 defendants have violated federal and state wage and hour law by failing to pay
13 members of the Impact classes for all hours worked and for all overtime hours at the
14 legally required overtime premium rates, among other violations.

15 85. Under their purported piece rate pay schemes, defendants have not paid
16 members of the Schneider-Premier and Impact classes compensation for work that
17 defendants have required, suffered, and permitted that does not directly involve
18 placing products into or out of containers and trucks. Defendants have not paid
19 these workers any compensation for mandatory on-duty waiting time and rest break
20 time that is not included in the piece rate calculation. Defendants have not paid
21 these workers any compensation for work filling or unloading truck containers that
22 are not completely filled or unloaded before the end of the workers' shift.

23 86. Because defendants' piece rate compensation schemes have not paid
24 plaintiffs and other members of the Schneider-Premier and Impact classes for time
25 that these workers rest, defendants have denied plaintiffs and all members of the
26 Schneider-Premier and Impact classes paid rest periods to which they are entitled.
27 Defendants also have violated the rights of all plaintiffs and other members of the
28 Schneider-Premier and Impact classes by failing to provide them with off-duty meal

1 breaks in compliance with the law. Defendants have not paid these workers the
2 additional hour of pay that California law requires employers to pay when they fail to
3 provide a legally required meal period or rest break.

4 87. Defendants have not paid plaintiffs or any members of the
5 Schneider-Premier and Impact classes the additional hour of pay that California law
6 requires employers to pay when workers are required to work two shifts that are
7 interrupted by a non-paid working period. Defendants have not paid these workers
8 any compensation for "reporting time" when the workers are called to duty by
9 defendants and then sent away without being given any work, or when these workers
10 work partial shifts but are sent home or otherwise laid off before a shift is completed.
11 Defendants have not paid these workers for all wages due and owing upon the
12 workers' discharge or other termination of employment.

13 88. Defendants have not kept accurate payroll records as required by law, and
14 have not provided plaintiffs or any members of the Schneider-Premier and Impact
15 classes with all of the information required by state law to be delivered with the
16 workers' paychecks, including an accurate statement of the actual hours worked and
17 the actual piece rate components, that would enable these workers to determine how
18 their purported piece rate pay was calculated. Defendants have misrepresented to
19 these workers how they would be paid, how much they earned, and how their
20 compensation is, has been, and will be calculated, and defendants have conspired
21 among and between themselves to prevent plaintiffs and other members of the
22 Schneider-Premier and Impact classes from gaining timely access to this information.

23 89. Defendants have maintained an unlawful policy and/or practice of
24 retaliating against plaintiffs and members of the Schneider-Premier and Impact
25 classes who questioned their pay, complained about defendants' pay practices,
26 sought detailed information about how their compensation was calculated, objected
27 to being assigned to do unpaid work, and otherwise asserted their rights under
28 federal and state labor law. Defendants' retaliation has taken a number of forms,

1 including but not limited to through denial of the opportunity to work, issuance of
2 disciplinary warnings and other threats, terminating or threatening to terminate
3 plaintiff class members, and through other means.

4 90. Defendants have unlawfully exposed all plaintiffs and other members of
5 the Schneider-Premier and Impact classes to hazardous working conditions, and
6 deprived and continue to deprive these workers of minimum health and safety
7 protections required by state and federal law. For example, defendants have forced
8 plaintiffs and similarly situated warehouse workers to perform their jobs under hot
9 and dusty conditions in superheated containers and warehouses without adequate
10 ventilation or rest breaks. Temperatures in the areas where plaintiffs and similarly
11 situated warehouse workers work often exceed 90 degrees, especially during the hot
12 Inland Empire summers, and the high levels of dust and airborne particulates
13 frequently cause these warehouse workers to suffer acute respiratory and other health
14 problems.

15 91. Defendants Premier, Schneider, Walmart, and Does 2-5 have required
16 plaintiffs Carrillo, Fernando Chavez, Flores, and Martinez, and other members of the
17 Schneider-Premier class to incur work-related expenses that are not reimbursed,
18 including but not limited to uniforms. For example, defendants Premier, Schneider,
19 Walmart, and Does 2-5 have required plaintiffs Carrillo, Fernando Chavez, Flores,
20 and Martinez, and other members of the Schneider-Premier class to “rent” a tee-shirt
21 uniform with a distinct Premier Unloading logo for one dollar per week. These
22 defendants have required these plaintiffs and members of the Schneider-Premier
23 class to wear this uniform at work and to be responsible for their own laundering and
24 upkeep of the uniform. Defendants Premier, Schneider, Walmart, and Does 2-5 have
25 unlawfully deducted one dollar per week from the paychecks of these plaintiffs and
26 other members of the Schneider-Premier class to pay for the “rental” of this
27 mandatory work uniform.

1 92. Defendants Premier, Schneider, Walmart, and Does 2-5 have also required
2 these plaintiffs and other members of the Schneider-Premier class to reimburse
3 defendants for defendants' purported cost of drug tests and/or background checks,
4 which amounts were deducted from these workers' paychecks.

5 93. Plaintiff Carrillo's employment by defendants terminated in or about
6 November 2010. Plaintiff Fernando Chavez's employment by defendants terminated
7 in or about June 2011. Plaintiff Juan Chavez's employment by defendants
8 terminated in or about December 2011. Plaintiff Armando Esquivel's employment
9 by defendants terminated in or about January 2011. At the time of their terminations,
10 defendants owed plaintiffs Carrillo, Fernando Chavez, Juan Chavez, and Esquivel
11 unpaid and underpaid wages that were then due and owing. Defendants knowingly
12 and willfully failed to pay plaintiffs Carrillo, Fernando Chavez, Juan Chavez,
13 Esquivel, and other members of the Schneider-Premier and Impact classes of
14 similarly situated workers whose employment terminated within the applicable
15 limitations period, the full amount of wages that were due and owing at the time of
16 their termination of employment.

17 94. Plaintiffs and other members of the Schneider-Premier and Impact classes
18 have no plain, speedy, or adequate remedy at law for the violations alleged herein,
19 because: (a) pecuniary compensation is not available for all such alleged violations;
20 (b) where pecuniary compensation is available it is not sufficient to remedy such
21 violations or to provide adequate and complete relief; (c) it is difficult to measure the
22 amount of monetary damages that would fully compensate plaintiffs for many of the
23 wrongful acts alleged herein; and (d) plaintiffs and similarly situated class members
24 who are currently employed by defendants or who will be employed by defendants in
25 the future are entitled by law not to be subjected to the violations alleged herein. For
26 these reasons, and because plaintiffs and similarly situated warehouse workers are
27 low-wage workers with limited financial means and often no other source of family
28 income who live day-by-day in precarious economic circumstances, they will suffer

1 great and irreparable harm if defendants' ongoing violations of law as alleged herein
2 are not promptly enjoined.

3 JOINT LIABILITY ALLEGATIONS

4 A. Defendants Have Jointly Employed Plaintiffs and All Class Members

5 95. Plaintiffs Everardo Carrillo, Fernando Chavez, Eric Flores, Jose Martinez
6 Arceo, and other members of the Schneider-Premier class have been jointly
7 employed by defendants Premier, Schneider, Walmart, and Does 2-5 to perform
8 unskilled, physical labor in the Mira Loma warehouses. Much of these employees'
9 work has involved placing cargo in containers or trailers on the backs of trucks under
10 the direction of defendants' supervisors who have jointly directed the work,
11 including by providing specific instructions to members of the Schneider-Premier
12 class about what cargo to select and where to place it. These defendants have
13 provided guidelines, requirements, and training to members of the Schneider-
14 Premier class about how to perform their duties, including but not limited to
15 instructions on how to lift boxes without injury and other safety training, although
16 defendants' supervisors regularly have disregarded such safety instructions in their
17 effort to pressure members of the Schneider-Premier class to be more productive
18 without regard to the workers' personal health and safety. Through the directions,
19 training, and supervision provided, defendants have not allowed these workers to
20 exercise independent judgment or discretion in the performance of their job duties.

21 96. Defendants Premier, Schneider, and Does 2-5 have been joint employers
22 of plaintiffs Everardo Carrillo, Fernando Chavez, Eric Flores, Jose Martinez Arceo,
23 and other members of the Schneider-Premier class, for the following reasons, among
24 others:

25 (a) Defendants Premier, Schneider, and Does 2-5 have jointly controlled and
26 dictated all material terms and conditions of the employment of members of the
27 Schneider-Premier class ;
28

1 (b) Members of the Schneider-Premier class have physically worked and
2 reported to work on Schneider's premises;

3 (c) The work of members of the Schneider-Premier class has been jointly
4 supervised by individuals employed by Premier, individuals employed by Schneider,
5 and Does 2-5;

6 (d) Members of the Schneider-Premier class have jointly applied for
7 employment through both Premier and Schneider, including by submitting
8 applications to Premier supervisors who have conducted defendants' hiring and
9 orientation activities at the Schneider warehouses, who have used orientation and/or
10 training materials from Schneider, its parent company, Schneider National, and/or
11 its customer, Walmart, and who have filled out employment-related paperwork at the
12 Schneider warehouses;

13 (e) Defendants Premier, Schneider, and Does 2-5 have jointly designed and
14 implemented the new-hire orientation that members of the Schneider-Premier class
15 must undertake after hiring, which has taken place at a Schneider warehouse with
16 Schneider training materials, and which has been principally run by Premier's on-site
17 supervisors;

18 (f) Defendants Premier, Schneider, and Does 2-5 have shared responsibility
19 for discipline and discharge decisions involving members of the Schneider-Premier
20 class, and Premier and Schneider have had authority and have jointly exercised the
21 authority to discharge, discipline, and/or correct the work of such warehouse workers
22 for perceived infractions of either Premier or Schneider's rules or policies or for
23 infractions of the rules or policies of their customers, including Walmart;

24 (g) Defendants Premier, Schneider, and Does 2-5 have jointly exercised
25 control over the number of hours and types of work performed by members of the
26 Schneider-Premier class by, among other things, deciding whether and when to
27 require those workers to perform work that is customarily performed by Schneider's
28 permanent direct-hire hourly rate employees, deciding whether and when to require

1 members of the Schneider-Premier class to perform warehouse work in addition to
2 filling truck containers, and deciding on the amount and pace of work that the
3 workers must perform;

4 (h) Defendants Premier, Schneider, and Does 2-5 have jointly exercised
5 control over the pay that members of the Schneider-Premier class receive by
6 dictating the pace at which their work must be performed, providing daily rate sheets
7 based on the size of the truck containers to be filled, and assigning members of the
8 Schneider-Premier class to perform tasks that do not count toward the piece rate
9 compensation scheme, thereby effectively lowering those workers' wages;

10 (i) Defendants Premier, Schneider, and Does 2-5 have jointly exercised
11 control over the working conditions under which members of the Schneider-Premier
12 class perform their jobs by supervising, monitoring, and checking their work,
13 including by instructing workers to change the way a box has been stacked or placed,
14 or by designating which boxes to remove if a truck is overweight; by determining the
15 protocol and procedure for filling each container and truck; by setting the daily pace
16 of work, including by imposing onerous and unrealistic productivity standards; by
17 setting work rules; and by adding to the workers' usual work duties;

18 (j) Premier, Schneider, and Does 2-5 have jointly exercised control over the
19 wages and working conditions of members of the Schneider-Premier class by
20 entering into contracts between and among themselves that necessarily require
21 defendants to pay those workers less than federal and California law require, because
22 defendants cannot produce the volume of work contracted for under the time
23 constraints contracted for while complying with the legally mandated pay rates under
24 federal and state law;

25 (k) Members of the Schneider-Premier class have generally performed just
26 one step in defendants' broader warehousing process, and defendants have assigned
27 to other workers the principal responsibility for unloading the boxes, placing them
28

1 into storage, and retrieving those boxes for plaintiffs and similarly situated
2 warehouse workers to place in the truck containers;

3 (l) Schneider has suffered or permitted members of the Schneider-Premier
4 class to work in its warehouses by acquiescing in and not hindering their working,
5 including by not remedying but instead accepting and profiting from the unlawful
6 conditions under which they work;

7 (m) The warehouse job duties performed by members of the Schneider-
8 Premier class constitute an integral, core function of the warehouse business of
9 Premier, Schneider, and Does 2-5; and

10 (n) Members of the Schneider-Premier class have performed work that
11 consists primarily of unskilled physical labor that does not require special training,
12 education, or the exercise of judgment or discretion to perform.

13 97. For the reasons set forth above, among others, defendants Premier,
14 Schneider, and Does 2-5, each directly or indirectly, or through an agent or any other
15 person, has employed or exercised control over the wages, hours, or working
16 conditions of plaintiffs Everardo Carrillo, Fernando Chavez, Eric Flores, Jose
17 Martinez Arceo, and other members of the Schneider-Premier class.

18 98. Plaintiffs Juan Chavez, Armando Esquivel, Guadalupe Rangel Mendoza,
19 Jose Enrique Trujillo-Vergara, and other members of the Impact class have been
20 jointly employed by defendants Impact, Walmart, and Does 6-10 to perform
21 unskilled, physical labor in the Mira Loma warehouses. Plaintiffs and other
22 members of the Schneider-Impact subclass have been jointly employed by
23 defendants Impact, Schneider, Walmart, and Does 6-10. Much of these employees'
24 work involves removing cargo from containers or trailers on the backs of trucks
25 under the direction of defendants' supervisors who jointly direct the work, including
26 by providing specific instructions to plaintiffs and similarly situated warehouse
27 workers about where to place the boxes unloaded from the semi-trailer truck
28 containers. Defendants Impact, Schneider, Walmart, and Does 6-10 have provided

1 guidelines, requirements, and training to members of the Schneider-Impact class
2 about how to perform their duties, including but not limited to instructions on how to
3 lift boxes without injury and other safety training, although defendants' supervisors
4 regularly have disregarded such safety instructions in their effort to pressure
5 members of the Schneider-Impact class to be more productive without regard to the
6 workers' personal health and safety. Through the directions, training, and
7 supervision provided, defendants have not allowed these workers to exercise
8 independent judgment or discretion in the performance of their job duties.

9 99. Defendants Impact, Schneider, and Does 6-10 are joint employers of
10 plaintiffs Juan Chavez, Armando Esquivel, Guadalupe Rangel Mendoza, Jose
11 Enrique Trujillo-Vergara, and other members of the Schneider-Impact subclass for
12 the following reasons, among others:

13 (a) Defendants Impact, Schneider, and Does 6-10 have jointly controlled and
14 dictated all material terms and conditions of the employment of members of the
15 Schneider-Impact subclass;

16 (b) The work of members of the Schneider-Impact subclass has been jointly
17 supervised by individuals employed by Impact, individuals employed by Schneider,
18 and Does 6-10;

19 (c) Defendants Impact, Schneider, and Does 6-10 share responsibility for
20 discipline and discharge decisions involving members of the Schneider-Impact
21 subclass, and Impact and Schneider have authority and jointly exercise the authority
22 to discharge, discipline, and/or correct the work of such warehouse workers for
23 perceived infractions of either Impact or Schneider's rules or policies or for
24 infractions of the rules or policies of their customers, including Walmart;

25 (d) Members of the Schneider-Impact class have jointly applied for
26 employment through both Impact and Schneider, including by submitting
27 applications to Impact supervisors who have conducted defendants' hiring and
28 orientation activities at the Schneider warehouses, who have used orientation and/or

1 training materials from Schneider, its parent company, Schneider National, and/or
2 its customer, Walmart, and who have filled out employment-related paperwork at the
3 Schneider warehouses;

4 (e) Defendants Impact, Schneider, and Does 2-5 have jointly designed and
5 implemented the new-hire orientation that members of the Schneider-Impact class
6 must undertake after hiring, which has taken place at a Schneider warehouse with
7 Schneider training materials, and which has been principally run by Impact's on-site
8 supervisors;

9 (f) Defendants Impact, Schneider, and Does 6-10 jointly exercise control over
10 the number of hours and types of work performed by members of the Schneider-
11 Impact subclass by, among other things, deciding whether and when to require those
12 workers to perform work that is customarily performed by Schneider's direct-hire
13 hourly rate employees, deciding whether and when to require members of the
14 Schneider-Impact subclass to perform warehouse work in addition to loading or
15 unloading truck containers, and deciding on the amount and pace of work that the
16 workers must perform;

17 (g) Defendants Impact, Schneider, and Does 6-10 jointly exercise control over
18 the pay that members of the Schneider-Impact subclass receive by dictating the pace
19 at which their work must be performed, providing daily rate sheets based on the size
20 of the truck containers to be filled, and assigning members of the Schneider-Impact
21 subclass to perform tasks that do not count toward the piece rate compensation
22 scheme, thereby effectively lowering those workers' wages;

23 (h) Defendants Impact, Schneider, and Does 6-10 jointly exercise control over
24 the working conditions under which members of the Schneider-Impact subclass
25 perform their jobs: by supervising, monitoring, and assigning the precise tasks that
26 must be performed; by checking and correcting their work; by directing individual
27 workers and teams of workers to perform various tasks throughout the warehouse; by
28 determining the protocols and procedures for unloading and loading boxes; by

1 setting the daily pace of work, including by imposing onerous and unrealistic
2 productivity standards; by setting work rules; and by adding to the workers' usual
3 work duties;

4 (i) Impact, Schneider, and Does 6-10 jointly exercise control over the wages
5 and working conditions of members of the Schneider-Impact subclass by entering
6 into contracts between and among themselves that necessarily require defendants to
7 pay those workers less than federal and California law require, because defendants
8 cannot produce the volume of work contracted for under the time constraints
9 contracted for while complying with the legally mandated pay rates under federal
10 and state law;

11 (j) Members of the Schneider-Impact subclass generally perform just one step
12 in defendants' broader warehousing process, and defendants assign to other workers
13 the principal responsibility for aspects of that process other than loading or
14 unloading boxes; such as moving boxes and other cargo to or away from the loading
15 dock and placing unloaded boxes into storage;

16 (k) Schneider suffers or permits members of the Schneider-Impact subclass to
17 work in its warehouses by acquiescing in and not hindering their working, including
18 by not remedying but instead accepting and profiting from the unlawful conditions
19 under which they work;

20 (l) The warehouse job duties performed by members of the Schneider-Impact
21 subclass constitute an integral, core function of the warehouse business of Impact,
22 Schneider, and Does 6-10; and

23 (m) Members of the Schneider-Impact subclass perform work that consists
24 primarily of unskilled physical labor that does not require special training, education,
25 or the exercise of judgment or discretion to perform.

26 100. For the reasons set forth above, among others, Impact, Schneider, and
27 Does 6-10, each directly or indirectly, or through an agent or any other person,
28 employs or exercises control over the wages, hours, or working conditions of

1 plaintiffs Juan Chavez, Armando Esquivel, Guadalupe Rangel Mendoza, and Jose
2 Enrique Trujillo-Vergara, and other members of the Schneider-Impact subclass.

3 101. Defendants Impact and Does 6-10 are joint employers of plaintiffs
4 Armando Esquivel, Guadalupe Rangel Mendoza, Jose Enrique Trujillo-Vergara, and
5 other members of the Pre-Schneider Impact subclass for the following reasons,
6 among others:

7 (a) Defendants Impact and Does 6-10 have jointly controlled and dictated all
8 material terms and conditions of the employment of members of the Pre-Schneider
9 Impact subclass;

10 (b) The work of members of the Pre-Schneider Impact subclass have been
11 jointly supervised by individuals employed by Impact and Does 6-10;

12 (c) Defendants Impact and Does 6-10 have shared responsibility for discipline
13 and discharge decisions involving members of the Pre-Schneider Impact subclass,
14 and Impact and Does 6-10 have had authority and have jointly exercised the
15 authority to discharge, discipline, and/or correct the work of such warehouse workers
16 for perceived infractions of the rules or policies of either Impact or Does 6-10, or for
17 perceived infractions of the rules or policies of their customers, including Walmart;

18 (d) Defendants Impact and Does 6-10 have jointly exercised control over the
19 number of hours and types of work performed by members of the Pre-Schneider
20 Impact subclass by, among other things, deciding whether and when to require those
21 workers to perform work that is customarily performed by the warehouse operator's
22 direct-hire hourly rate employees, deciding whether and when to require members of
23 the Pre-Schneider Impact subclass to perform warehouse work in addition to
24 unloading truck containers, and deciding on the amount and pace of work that the
25 workers must perform;

26 (e) Defendants Impact and Does 6-10 have jointly exercised control over the
27 pay that members of the Pre-Schneider Impact subclass receive by dictating the pace
28 at which their work must be performed, providing daily rate sheets based on the size

1 of the truck containers to be filled, and assigning members of the Pre-Schneider
2 Impact subclass to perform tasks that do not count toward the piece rate
3 compensation scheme, thereby effectively lowering those workers' wages;

4 (f) Defendants Impact and Does 6-10 have jointly exercised control over the
5 working conditions under which members of the Pre-Schneider Impact subclass
6 perform their jobs: by jointly imposing training standards and procedures; by
7 supervising, monitoring, and assigning the precise tasks that must be performed; by
8 checking and correcting their work; by directing individual workers and teams of
9 workers to perform various tasks throughout the warehouse; by determining the
10 protocols and procedures for unloading and loading boxes; by setting the daily pace
11 of work, including by imposing onerous and unrealistic productivity standards; by
12 setting work rules; and by adding to the workers' usual work duties;

13 (g) Impact and Does 6-10 have jointly exercised control over the wages and
14 working conditions of members of the Pre-Schneider Impact subclass by entering
15 into contracts between and among themselves that necessarily require defendants to
16 pay those workers less than federal and California law require, because defendants
17 cannot produce the volume of work contracted for under the time constraints
18 contracted for while complying with the legally mandated pay rates under federal
19 and state law;

20 (h) Members of the Pre-Schneider Impact subclass have generally performed
21 just one step in defendants' broader warehousing process, and defendants have
22 assigned to other workers the principal responsibility for aspects of that process
23 other than loading or unloading boxes; such as moving boxes and other cargo to or
24 away from the loading dock and placing unloaded boxes into storage;

25 (i) Does 6-10 have suffered or permitted members of the Pre-Schneider Impact
26 subclass to work in defendants' warehouses by acquiescing in and not hindering
27 their working, including by not remedying but instead accepting and profiting from
28 the unlawful conditions under which they work;

1 (j) The warehouse job duties performed by members of the Pre-Schneider
2 Impact subclass constitute an integral, core function of the warehouse business of
3 Impact and Does 6-10; and

4 (k) Members of the Pre-Schneider Impact subclass perform work that consists
5 primarily of unskilled physical labor that does not require special training, education,
6 or the exercise of judgment or discretion to perform.

7 102. For the reasons set forth above, among others, Impact and Does 6-10,
8 each directly or indirectly, or through an agent or any other person, employs or
9 exercises control over the wages, hours, or working conditions of plaintiffs Armando
10 Esquivel, Guadalupe Rangel Mendoza, and Jose Enrique Trujillo-Vergara, and other
11 members of the Pre-Schneider Impact subclass.

12 103. In addition to the other defendants, defendant Walmart has been a joint
13 employer of all plaintiffs and other members of the Schneider-Premier class and the
14 Impact class, for the following reasons, among others:

15 (a) Walmart has, along with the other defendants, jointly controlled and
16 dictated all material terms and conditions of the employment of members of the
17 Schneider-Premier and Impact classes, including by:

18 (1) dictating the specific tasks to be undertaken by the plaintiffs,
19 the manner and order in which these tasks are to be completed, and the
20 extent and nature of paperwork, reports, and forms to be used by the
21 plaintiffs by creating, requiring, and enforcing detailed Standard
22 Operating Procedures and other warehouse standards, policies, and
23 procedures governing the loading, unloading, and other tasks that
24 plaintiffs and other members of the plaintiff classes have been required
25 to perform, including off-the-clock work that Walmart knew or should
26 have known was not being compensated and overtime work that
27 Walmart knew or should have known was not being properly
28 compensated;

1 (2) devising and requiring standardized training and skills testing
2 that must be completed by plaintiffs and other members of the plaintiff
3 classes;

4 (3) overseeing the day-to-day performance of plaintiffs and other
5 class members through the on-site supervision and reporting of Walmart
6 personnel, including most recently its Mira Loma Quality Assurance
7 Manager Hector Avalos, and by delegating such supervision and
8 reporting to Schneider's personnel in the Mira Loma warehouses;

9 (4) conducting meticulous, comprehensive audits on a monthly
10 and other periodic basis of the performance of all plaintiff warehouse
11 workers, including by monitoring their regular and overtime hours, their
12 efficiency and productivity as measured against Walmart-established
13 quotas, and the labor costs in the Mira Loma warehouses, including the
14 wages paid to plaintiffs;

15 (5) requiring Schneider to develop and implement detailed action
16 plans, in response to the Walmart audits, to promptly correct any
17 deficiencies found in those audits, by conducting additional training,
18 making procedural changes, or otherwise;

19 (6) requiring regular written reports from Schneider about the
20 day-to-day staffing levels, quantification and analysis of regular and
21 overtime hours expended, and productivity of all workers employed at
22 the Mira Loma warehouses, including plaintiffs and class members; and

23 (7) engaging in daily oral and written communications and
24 conducting weekly telephonic meetings with Schneider to discuss and
25 evaluate the day-to-day staffing levels, number of regular and overtime
26 hours expended, and productivity of all warehouse workers, including
27 plaintiffs; and through other related means.

1 (b) Members of the Schneider-Premier and Impact classes have been
2 employed to work in warehouse premises that are owned and/or leased by Walmart,
3 operated by Walmart's closely controlled contractor, Schneider, and secured by
4 Walmart's security company, U.S. Security Services, Inc., under rules and standards
5 dictated by Walmart;

6 (c) The work performed by members of the Schneider-Premier and Impact
7 classes has been jointly supervised by Walmart and the other defendants through a
8 number of means, including by Walmart dictating the required number of
9 supervisory staff who oversee plaintiffs' work performance and productivity, and by
10 Walmart itself maintaining supervisory staff on the premises of the Mira Loma
11 warehouses at all relevant times;

12 (d) Walmart has imposed on its contractor, defendant Schneider, the
13 obligation to provide high quality, trained staff to conduct its warehouse operations
14 in the Mira Loma warehouses, and thus, has induced and required its contractor,
15 defendant Schneider, to devise and impose detailed standards on its own direct
16 employees and on all plaintiffs for pre-employment screening, orientation, and
17 training that must be completed before plaintiffs and other warehouse workers
18 perform work in the Mira Loma warehouses;

19 (e) Walmart has set the standards for training, work performance, and conduct
20 for all plaintiffs and members of the Schneider-Premier and Impact classes and thus
21 exercises, along with the other defendants, shared responsibility for discipline and
22 discharge decisions involving members of the Schneider-Premier and Impact classes
23 who violate Walmart's training, work performance, and/or conduct standards, and
24 has had authority and has jointly exercised the authority, along with the other
25 defendants, in discharging, disciplining, and/or correcting the work of such
26 warehouse workers for perceived infractions of either Premier, Impact, or
27 Schneider's rules or policies or for infractions of Walmart's rules, policies, or
28 procedures;

1 (f) Walmart has, along with the other defendants, jointly exercised control
2 over the number of hours, productivity standards, schedules, and the speed and
3 amount of work performed by members of the Schneider-Premier and Impact classes
4 by, among other things:

5 (1) establishing standard operating metrics for warehouses
6 operated by Walmart alone ("Walmart-run" warehouses) and by third
7 parties like Schneider, that impose requirements for accuracy, timely
8 processing, and productivity, the latter of which is largely measured by
9 the number of cases processed per hour (CPH), and setting and/or
10 approving specific CPH standards for loaders and unloaders in the Mira
11 Loma warehouses, including plaintiffs and all members of the plaintiff
12 classes;

13 (2) preparing and approving manpower projections that establish
14 the number of hours to be expended on a month-to-month basis in the
15 Mira Loma warehouses, based on statistics that Schneider must report to
16 Walmart and that Walmart must review and approve, which itemize, by
17 job duty, the number of hours worked in the prior year and the projected
18 hours to be worked in the budgeted year, and that budget projected
19 hours by week and/or month for plaintiff warehouse workers;

20 (3) preparing and approving annual and monthly budgets that
21 establish and approve the overall labor costs to be expended in the Mira
22 Loma warehouses, based on Walmart's review and approval of reports
23 from defendant Schneider that provide, *inter alia*: the number, identity
24 and job responsibilities of all supervisory staff in the Mira Loma
25 warehouses, including those hired by Impact and Premier; the ratio of
26 managers to non-managerial workers to be used as compared to
27 Walmart's target ratio; the total number of Schneider direct employees
28 and of Impact and Premier direct employees working in the warehouse;

1 the ratio of Schneider direct employees to subcontractor employees to
2 be used as compared to the standard ratio in warehouses owned and
3 entirely operated by Walmart; the total number of regular and overtime
4 hours projected to be worked in the warehouse; and other required
5 measures;

6 (4) requiring Schneider to collect detailed statistics on the number
7 of hours worked by plaintiffs and each member of the plaintiff classes
8 on a daily basis and to report these numbers to Walmart in regular
9 weekly and monthly reports and in updated assessments of compliance
10 with the number of hours budgets that may occur as frequently as on a
11 daily basis;

12 (5) determining, through its budgeting and staffing projection
13 practices, the specific amount of budgeted hours that may be devoted to
14 loading and/or unloading in the Mira Loma warehouses during a
15 particular workweek to satisfy the approved CPH assigned to plaintiff
16 warehouse workers, while also controlling the volume of goods that
17 must be processed at the Mira Loma warehouses during any week and
18 the required rates at which those goods must be processed; and through
19 other related means.

20 (g) Walmart has, along with the other defendants, jointly exercised control
21 over the pay that members of the Schneider-Premier and Impact classes receive
22 through various means, including but not limited to: by dictating the pace at which
23 plaintiffs' work must be performed, as through the assignment of specific CPH rates
24 for loading and unloading; by exercising strict controls over what Schneider, Impact,
25 and Premier can pay plaintiffs through Walmart's budgeting and staffing projection
26 procedures; by exercising strict controls over the number and cost of overtime hours
27 worked in the Mira Loma warehouse; by mandating that Walmart must approve any
28 increases in the amounts paid by Schneider to Impact and/or Premier for warehouse

1 services; by closely monitoring the number of hours worked by plaintiffs, and the
2 cost of loading and unloading work in the Mira Loma warehouses; and through other
3 means designed to suppress and/or lower the wages paid to plaintiffs;

4 (h) Walmart has, along with the other defendants, jointly exercised control
5 over the working conditions under which members of the Schneider-Premier and
6 Impact classes perform their jobs by supervising, monitoring, and checking their
7 work, as alleged in more detail above; by determining the protocol and procedure for
8 loading and/or unloading each container and truck and requiring that its standards be
9 followed as the minimum level of acceptable performance in the Mira Loma
10 warehouses; by setting the daily pace of work, including by imposing onerous and
11 unrealistic productivity standards; by setting work rules; by overseeing and
12 approving or denying approval of safety and health measures designed to improve
13 working conditions for the plaintiffs; and through other related means;

14 (i) Walmart has, along with the other defendants, jointly exercised control
15 over the wages and working conditions of members of the Schneider-Premier and
16 Impact classes by entering into contracts between and among themselves that
17 necessarily require defendants to pay those workers less than federal and California
18 law require, because defendants cannot produce the volume of work contracted for
19 under the time constraints contracted for while complying with the legally mandated
20 pay rates under federal and state law;

21 (j) Members of the Schneider-Premier and Impact classes have generally
22 performed a single critical step in Walmart's overall warehousing process – loading
23 and unloading trucks – and defendants have assigned to other workers the principal
24 responsibility for performing other warehouse tasks that occur in the warehousing
25 and delivery process, including taking the cases unloaded by the Impact class
26 members and placing them into storage and retrieving those cases out of storage and
27 transporting them to the loading dock for the Schneider-Premier class members to
28 place in the truck trailers;

1 (k) Walmart has suffered or permitted plaintiffs and other members of the
2 Schneider-Premier and Impact classes to work in its warehouses by acquiescing in
3 and not hindering their working, including by not remedying but instead accepting
4 and profiting from the unlawful conditions under which they work;

5 (l) The warehouse job duties performed by plaintiffs and other members of
6 the Schneider-Premier and Impact classes constitute an integral, core function of the
7 warehouse business of Walmart, which directly employs loaders and unloaders doing
8 the same work performed by plaintiffs in its own Walmart-run warehouses; and

9 (m) Plaintiffs and other members of the Schneider-Premier and Impact classes
10 have performed work that consists primarily of unskilled physical labor that does not
11 require special training, education, or the exercise of judgment or discretion to
12 perform.

13 104. For the reasons set forth above, among others, defendant Walmart,
14 together with the other defendants, directly or indirectly, or through an agent or any
15 other person, employs or exercises control over the wages, hours, or working
16 conditions of all plaintiffs and other members of the Schneider-Premier and Impact
17 classes.

18 **B. Defendants Have Committed the Violations Alleged Herein as Co-**
19 **Conspirators**

20 105. Plaintiffs are informed and believe, and on that basis allege, that at all
21 material times, each defendant acted and is continuing to act as a co-conspirator of
22 each other defendant and of certain unnamed and as-yet unknown co-conspirators.
23 Plaintiffs are informed and believe, and on that basis allege, that prior to the start of
24 the applicable limitations periods, each defendant entered into a conspiracy and
25 agreement with the other defendants and with unnamed and unknown co-
26 conspirators and/or subsequently joined said conspiracy and ratified the prior acts
27 and conduct of the other defendants and/or co-conspirators who had previously
28 entered into said conspiracy. The purpose of said ongoing conspiracy includes

1 unlawfully evading compliance with the federal and state labor laws in an effort to
2 artificially reduce defendants' labor costs and unlawfully maximize their profits by
3 failing to pay plaintiffs and similarly situated warehouse workers the wages and
4 benefits required by law; failing to provide meal periods, rest breaks, and other labor
5 rights mandated by law; creating a sham and fraudulent group "piece rate" scheme;
6 and concealing their illegal activities by making misrepresentations about facts
7 known only to defendants, by failing to provide workers with information required
8 by law, and by other means. Plaintiffs are currently unaware of when each defendant
9 or other co-conspirator joined said conspiracy but, on information and belief, allege
10 that all defendants and their co-conspirators knowingly, maliciously and wilfully
11 entered into said conspiracy which continues to this day. By engaging in the conduct
12 and omissions alleged in this Complaint, each defendant was acting within the
13 course and scope of its agency, with the authorization of the other defendants, and in
14 furtherance of the ongoing conspiracy.

15 **C. Schneider, Walmart, and Does 2-15 Have Aided and Abetted Premier and**
16 **Impact in the Commission of the Violations Alleged Herein**

17 106. Schneider, Walmart, Does 2-5, and Does 11-15 aided and abetted
18 Premier in the commission of the violations against the Schneider-Premier class and
19 Schneider-Premier Mass Retaliation subclass alleged herein. Schneider, Walmart,
20 Does 2-5, and Does 11-15 knew that Premier's conduct was in breach of Premier's
21 duties to plaintiffs and other members of the Schneider-Premier class and Schneider-
22 Premier Mass Retaliation Subclass; and Schneider, Does 2-5, and Does 11-15 gave
23 substantial assistance or encouragement to Premier to so act. In addition, the
24 conduct of Schneider, Walmart, Does 2-5, and Does 11-15 has breached those
25 defendants' duties to plaintiffs and other members of the Schneider-Premier class
26 and Schneider-Premier Mass Retaliation subclass. Schneider, Walmart, Does 2-5,
27 and Does 11-15 have given substantial assistance or encouragement to Premier by,
28 for example, requiring Premier to supply a sufficient number of warehouse workers

1 to meet labor demands that varied on a daily basis, and requiring that those
2 warehouse workers meet high productivity standards under severe time constraints,
3 while also requiring Premier to keep labor costs low and compensating Premier at
4 low rates, which caused Premier to violate federal and state minimum wage and
5 overtime standards.

6 107. Schneider, Walmart, and Does 6-15 have aided and abetted and continue
7 to aid and abet Impact in the commission of the violations against the Impact class
8 alleged herein. Schneider, Walmart, and Does 6-15 have known that Impact's
9 conduct is in breach of Impact's duties to plaintiffs and other members of the Impact
10 class; and Schneider, Walmart, and Does 6-15 have given substantial assistance or
11 encouragement to Impact to so act. In addition, the conduct of Schneider, Walmart,
12 and Does 6-15 has breached those defendants' duties to plaintiffs and other members
13 of the Impact class. Schneider, Walmart, and Does 6-15 have given and continue to
14 give substantial assistance or encouragement to Impact by, for example, requiring
15 Impact to supply a sufficient number of warehouse workers to meet labor demands
16 that varied on a daily basis, and requiring that those warehouse workers meet high
17 productivity standards under severe time constraints, while also requiring Impact to
18 keep labor costs low and compensating Impact at low rates, which has caused and
19 continues to cause Impact to violate federal and state minimum wage and overtime
20 standards.

21 **D. Impact and Premier Have Acted as Agents of Schneider, Walmart, and**
22 **Does 2-15; and Schneider Has Acted as an Agent of Walmart**

23 108. Plaintiffs are informed and believe, and on that basis allege, that at all
24 material times, defendant Premier acted as an agent of Schneider, Walmart, Does 2-
25 5, and Does 11-15. Premier employed plaintiffs and members of the Schneider-
26 Premier class on behalf of those defendants for those defendants' benefit. Schneider,
27 Walmart, Does 2-5, and Does 11-15 had the authority to control and exercised
28 control over the wages, hours, and working conditions of the workers paid by

1 Premier. By engaging in the violations alleged herein, Premier was acting within the
2 course and scope of its agency, with the authorization of Schneider, Walmart, Does
3 2-5, and Does 11-15.

4 109. Plaintiffs are informed and believe, and on that basis allege, that at all
5 material times, defendant Impact has acted and continues to act as an agent of
6 Schneider, Walmart, and Does 6-15. Impact has employed and continues to employ
7 plaintiffs and members of the Impact class on behalf of those defendants and for
8 those defendants' benefit. Schneider, Walmart, and Does 6-15 have the authority to
9 control and exercise control over the wages, hours, and working conditions of the
10 workers paid by Impact. By engaging in the violations alleged herein, Impact has
11 acted and continues to act within the course and scope of its agency, with the
12 authorization of Schneider, Walmart, and Does 6-15.

13 110. Plaintiffs are informed and believe, and on that basis allege, that at all
14 material times, defendant Schneider has acted and continues to act as an agent of
15 Walmart. Jointly with defendants Impact and Premier, Schneider has employed and
16 continues to employ plaintiffs and members of the Schneider-Premier class and
17 Schneider-Impact subclass on behalf of Walmart and for Walmart's benefit.
18 Walmart has the authority to control and exercises control over the wages, hours, and
19 working conditions of the workers paid by Impact, Premier, and Schneider. By
20 engaging in the violations alleged herein, Schneider has acted and continues to act
21 within the course and scope of its agency, with the authorization of Walmart.

22 **E. Walmart Has Been Negligent in Its Selection, Hiring, Retention,**
23 **Supervision, and/or Control of Schneider**

24 111. Walmart has been the owner and/or lessee of the Mira Loma warehouses,
25 the owner of the warehouse equipment, the owner of all the goods that move through
26 those warehouses by the physical efforts of plaintiff warehouse workers, and the only
27 customer served by those warehouses since before 2001, when defendant Impact first
28 began operations in those warehouses.

1 112. At all relevant times, Walmart has closely monitored, supervised, and
2 controlled the operations of the Mira Loma warehouses, and has known or should
3 have known of the violations of the federal and state labor and employment law
4 rights of plaintiffs and similarly situated warehouse workers that have been
5 occurring at those warehouses since at least 2001, including violations committed by
6 defendant Impact, as alleged herein. These violations include but are not limited to
7 requiring plaintiffs Esquivel, Mendoza, and Trujillo-Vergara and similarly situated
8 warehouse workers to work long hours in excess of legal limits without proper
9 compensation, failing to record all hours worked, failing to compensate all
10 compensable activities and piece work at the legally required minimum wage and
11 overtime rates, and failing to disclose critical wage and hour information to plaintiff
12 warehouse workers.

13 113. Although Walmart knew or should have known of the violations
14 alleged herein when Walmart in or around 2006 selected and hired Schneider to
15 operate the Mira Loma warehouses, Walmart failed to take any reasonable steps to
16 stop those violations from continuing or increasing in scope or frequency, and
17 instead created conditions that inevitably increased the likelihood that these
18 violations would continue to occur and worsen, including by entering into a cost-
19 plus contract with Schneider that contains powerful economic incentives for both
20 Walmart and Schneider to require increased productivity from plaintiffs and other
21 class members while lowering the costs of their labor, including by reducing the
22 amount of reported hours and overtime hours worked. Walmart knew or should have
23 known that selecting, hiring, and retaining Schneider to operate the Mira Loma
24 warehouses on Walmart's behalf would create an undue risk that the state and federal
25 labor and employment law rights of members of the Schneider-Premier class and
26 Schneider-Impact subclass would be violated as alleged herein, and that those
27 workers would thereby be harmed, in part because Walmart knew or should have
28 known, based on the terms of its contracts with Schneider and its knowledge of what

1 had been occurring at the Mira Loma warehouses and at other warehouses
2 throughout the country, including Wamart-run warehouses, that Schneider would not
3 be able to simultaneously meet Walmart's productivity standards, stay within
4 Walmart's labor and cost budgets, and maintain a profit margin at the rates paid by
5 Walmart while complying with all applicable federal and state employment law
6 standards.

7 114. At all relevant times since 2006, Walmart has also negligently retained,
8 supervised, and/or controlled Schneider as the operator of its Mira Loma
9 warehouses. Walmart has known or should have known that Schneider and its labor
10 services contractors were violating and would continue to violate the employment
11 law rights of the members of the Schneider-Premier class and Schneider-Impact
12 subclass as alleged herein, because Walmart closely monitored, supervised, and
13 controlled Schneider's warehouse operations, including the hours worked by
14 plaintiffs and other warehouse workers, the amounts paid to those workers, and the
15 conditions under which those workers labored.

16 115. Although Walmart has had the authority to control, and has exercised
17 substantial control, over Schneider's operation of the Mira Loma warehouses,
18 including the material terms and conditions of the employment of members of the
19 Schneider-Premier class and Schneider-Impact subclass, Walmart has failed to
20 ensure compliance with federal and state employment law standards or to implement
21 effective procedures for ensuring such compliance in its Mira Loma warehouses.
22 Walmart also failed to take reasonable measures to prevent the violations alleged
23 herein from continuing to occur by, *inter alia*, providing economic incentives to
24 encourage Schneider and its labor services contractors to lawfully compensate the
25 plaintiff warehouse workers for all hours worked and eliminating incentives to cheat
26 those workers as alleged herein; setting rates for warehouse services, productivity
27 standards, and staffing and labor budgets that would realistically permit compliance
28 with the applicable labor and employment laws; exercising its authority to monitor,

1 supervise, and control Schneider in a manner that ensured compliance with federal
2 and state labor and employment laws, instead of turning a willful blind eye to
3 rampant violations; and/or prohibiting Schneider from continuing to contract with
4 undercapitalized labor service contractors, such as defendants Impact and Premier,
5 that Walmart and Schneider knew or should have known were violating plaintiff
6 warehouse workers' labor and employment law rights, as alleged herein. In
7 particular, because Walmart has known or should have known since 2001 that
8 Impact routinely violates federal and state labor and employment laws as alleged
9 herein, Walmart has been and continues to be negligent in permitting Schneider to
10 continue contracting with Impact for the provision of labor services in Walmart's
11 Mira Loma warehouses, without taking any affirmative measures to ensure that
12 Impact is complying with all applicable labor and employment laws.

13 116. On information and belief, Schneider committed other labor and
14 employment law violations before Walmart hired Schneider to operate its Mira Loma
15 warehouses in 2006, and Walmart was also negligent in selecting, hiring, retaining,
16 supervising, and/or controlling Schneider because, at the time that Walmart hired
17 Schneider, Walmart knew or should have known that Schneider had committed other
18 labor and employment law violations, and that there was an undue risk that
19 Schneider would continue to commit, directly or indirectly through its labor services
20 contractors, additional employment law violations at the Mira Loma warehouses.

21 117. The violations and harms to the Schneider-Premier class and Schneider-
22 Impact subclass alleged herein are the result of Walmart's failure to exercise due
23 care in the selection, hiring, retention, supervision, and/or control of Schneider; and
24 based on the facts described above, which Walmart knew or should have known
25 when it selected and hired Schneider and continued to retain, supervise, and control
26 Schneider, those violations and harms were foreseeable.

27 TOLLING ALLEGATIONS

118. Plaintiffs are further informed and believe, and based on such information and belief allege, that defendants, and each of them, and those who acted as defendants' co-conspirators, agents, and/or aiders and abettors, and/or who acted in concert with defendants, have engaged and have continued to engage in the unlawful practices alleged in this Complaint and will continue to do so unless restrained and enjoined by this Court. To the extent that defendants have ceased engaging in some of the unlawful practices alleged in this Complaint, plaintiffs are informed and believe and on that basis allege that defendants have done so only in response to this pending litigation and because some practices have been preliminarily restrained and enjoined by this Court.

119. Defendants, including Does 11-15 who did not actually employ plaintiffs, had, and continue to have, the means of obtaining and actual possession of superior knowledge and special information relating to the nature and scope of the practices alleged herein and whether those practices are unlawful under state and federal law. Plaintiffs and similarly situated warehouse workers do not have, or have access to, this same information, which defendants have deliberately withheld from them. Defendants' superior knowledge and special information includes: what work is being performed in defendants' warehouses; who is performing it; how each piece rate is calculated; when each piece rate component is completed; which workers on which shifts and in which warehouses performed the work on each piece rate component; the history of defendants' use of warehouse workers; the discussions, agreements, negotiations, and other communications between the joint employer defendants (Does 2-10) and their suppliers and customers (Does 11-15) concerning the facts alleged in this Complaint and the structure of their relationship with each other, with the workers, and with suppliers and customers (including discussions concerning the labor cost component of defendants' contracts and commitments, and the labor cost component of defendants' budgeting); the history and historical development of the hourly rate and piece rate pay systems for plaintiffs and similarly

1 situated warehouse workers; and other facts relevant to a determination of each
2 worker's proper pay. As a result of defendants' scheme to ensure that they have
3 superior knowledge, coupled with defendants' actual possession of such superior
4 knowledge, each defendant has gained an unconscionable advantage over their
5 workers, who have been and continue to be kept unaware of material facts relevant to
6 their wage and other claims and who have not been and are not in a position to
7 become informed about such facts.

8 120. Despite defendants' superior knowledge and special information,
9 defendants have failed to provide plaintiffs and similarly situated workers with
10 material information pertaining to the claims alleged in this lawsuit. To the contrary,
11 defendants have protected and reinforced their superior knowledge and access to
12 special information by resisting plaintiffs' efforts to obtain such information and by
13 retaliating against and punishing plaintiffs and other class members who have
14 requested the type of wage and other information that defendants have withheld from
15 plaintiffs. Defendants are under a statutory obligation to provide much of this
16 information to plaintiffs and similarly situated workers at the time of every wage
17 payment yet defendants have not complied with this statutory requirement, thereby
18 breaching a statutory duty and concealing and affirmatively misrepresenting material
19 information that would reveal defendants' unlawful practices. Defendants have also
20 failed and, on information and belief, continue to fail to comply with the
21 requirements under federal law, 29 CFR §516.4 and in IWC Wage Order 9-2001 §22
22 that federal minimum wage laws and the entire wage order be posted in a
23 conspicuous area frequented by employees where it may be easily read during the
24 workday.

25 121. Because of defendants' ongoing conspiracy to violate their warehouse
26 workers' rights and to conceal defendants' unlawful practices as alleged herein, and
27 because of defendants' failure to notify their employees of their rights under federal
28 and state wage and hour law, as is required under 29 CFR §516.4 and in IWC Wage

1 Order 9-2001 §22, the applicable statute of limitations on the claims of plaintiffs and
2 other workers has been and should continue to be tolled through the date on when
3 each worker learned or learns of defendants' illegal practices and policies.

4 **CLASS ACTION ALLEGATIONS**

5 122. Proposed Classes and Subclasses. Plaintiffs Everardo Carrillo, Fernando
6 Chavez, Eric Flores, and Jose Martinez Arceo, as class representatives, bring the
7 Second through Seventeenth Claims for Relief on behalf of a class of all similarly
8 situated individuals, pursuant to Rule 23 of the Federal Rules of Civil Procedure.
9 The proposed Schneider-Premier class includes all individuals employed as
10 warehouse workers at one or more of defendants' Inland Empire warehouses in
11 Eastvale (formerly Mira Loma), California, at any time during the applicable
12 limitations periods, who were initially hired to perform that work by Premier.

13 123. Plaintiffs Eric Flores and Jose Martinez Arceo also bring the Ninth
14 Claim for Relief on behalf of a subclass of all similarly situated individuals, pursuant
15 to Rule 23 of the Federal Rules of Civil Procedure. The proposed Schneider-Premier
16 Mass Retaliation subclass includes all individuals who were initially hired by
17 Premier, employed as warehouse workers at one or more of defendants' Inland
18 Empire warehouses in Eastvale (formerly Mira Loma), California, and were working
19 at any time from the announced termination on November 18, 2011 through and
20 including February 24, 2012.

21 124. Plaintiffs Juan Chavez, Armando Esquivel, Guadalupe Rangel Mendoza,
22 and Jose Enrique Trujillo-Vergara bring the Second through Twelfth and Fifteenth
23 through Seventeenth Claims for Relief on behalf of a class of all similarly situated
24 individuals, pursuant to Rule 23 of the Federal Rules of Civil Procedure. The
25 proposed Impact class includes all individuals employed as warehouse workers at
26 one or more of defendants' Inland Empire warehouses in Eastvale (formerly Mira
27 Loma), California, at any time during the applicable limitations periods, who were
28 initially hired to perform that work by Impact.

1 125. Plaintiffs Armando Esquivel, Guadalupe Rangel Mendoza, and Jose
2 Enrique Trujillo-Vergara bring the Second through Twelfth and Fifteenth through
3 Seventeenth Claims for Relief on behalf of a subclass of all similarly situated
4 individuals, pursuant to Rule 23 of the Federal Rules of Civil Procedure. The
5 proposed Pre-Schneider Impact subclass includes all individuals employed as
6 warehouse workers at one or more of defendants' Inland Empire warehouses in
7 Eastvale (formerly Mira Loma), California, at any time before Schneider assumed
8 operations of those warehouses and during the applicable limitations periods, who
9 were initially hired to perform that work by Impact.

10 126. Plaintiffs Juan Chavez, Armando Esquivel, Guadalupe Rangel Mendoza,
11 and Jose Enrique Trujillo-Vergara bring the Second through Twelfth and Fourteenth
12 through Seventeenth Claims for Relief on behalf of a subclass of all similarly
13 situated individuals, pursuant to Rule 23 of the Federal Rules of Civil Procedure.
14 The proposed Schneider-Impact subclass includes all individuals employed as
15 warehouse workers at one or more of defendants' Inland Empire warehouses in
16 Eastvale (formerly Mira Loma), California, at any time after Schneider assumed
17 operations of those warehouses and during the applicable limitations periods, who
18 were initially hired to perform that work by Impact.

19 127. Ascertainability. The identity of all class members is readily
20 ascertainable from defendants' records, and class notice can be provided to all class
21 members by means permitted by Rule 23 of the Federal Rules of Civil Procedure. To
22 be effective, class notice should be provided not only through written
23 communication to each class member's last known address as reflected in
24 defendants' records, but also through Spanish language newspaper and radio
25 announcements, workplace postings, and other alternative means of notice designed
26 to reach this class of transient, largely non-English speaking warehouse workers
27 whom defendants have affirmatively misled and deprived of information concerning
28 their workplace rights under state and federal law and of other information material

1 to the claims alleged herein. Most class members are no longer employed by
2 defendants, cannot be reached at the last-known addresses in defendants' records,
3 and do not have access to traditional English-speaking media.

4 128. Numerosity. The size of the class makes a class action both necessary
5 and efficient. The class consists of approximately 1800 warehouse workers currently
6 or formerly working at the Mira Loma warehouses during the applicable limitations
7 period. Members of the class are ascertainable but so numerous that joinder is
8 impracticable. The class includes future class members who will benefit from the
9 injunctive relief sought herein and whose joinder is inherently impossible.

10 129. Common Questions Of Law And Fact. This case poses common
11 questions of law and fact affecting the rights of all class members, including:

- 12 (a) The legality of defendants' piece rate compensation systems;
- 13 (b) The policies, practices, programs, procedures, protocols, and plans of
14 defendants regarding payment of the minimum wage;
- 15 (c) The policies, practices, programs, procedures, protocols, and plans of
16 defendants regarding payment of overtime premiums;
- 17 (d) Whether defendants required, suffered, or permitted plaintiffs and
18 similarly situated warehouse workers to work in excess of eight hours
19 per day and/or 12 hours per day and/or 40 hours per week and/or seven-
20 day workweeks comprising more than 30 hours total work or more than
21 six hours of work per day;
- 22 (e) Whether defendants paid plaintiffs and similarly situated warehouse
23 workers the legally required overtime premium for hours worked in
24 excess of eight hours per day and/or 12 hours per day and/or 40 hours
25 per week and/or on the seventh day of work;
- 26 (f) Whether defendants provided plaintiffs and similarly situated
27 warehouse workers with accurate itemized wage statements as required
28 by California Labor Code §226;

- 1 (g) Whether defendants paid plaintiffs and similarly situated warehouse
2 workers the reporting time pay required by California law when
3 defendants required workers to report for duty but discharged them
4 without providing them any work or discharged them mid-shift without
5 pay, in violation of IWC Wage Order No. 9-2001 §5;
- 6 (h) Whether defendants paid plaintiffs and similarly situated warehouse
7 workers an additional hour of pay when they are required to work two
8 shifts that are interrupted by a non-paid working period, as required by
9 IWC Wage Order No. 9-2001 §4(C);
- 10 (i) Whether defendants paid plaintiffs and similarly situated warehouse
11 workers their full wages when due and whether defendants willfully
12 failed to make timely payment of the full wages due to workers who quit
13 or have been discharged as required by California Labor Code §§201-
14 04;
- 15 (j) Whether defendants paid plaintiffs and similarly situated warehouse
16 workers secret wages in violation of Labor Code §223;
- 17 (k) Whether defendants made fraudulent misrepresentations to plaintiffs
18 and similarly situated warehouse workers;
- 19 (l) Whether defendants violated California Labor Code §226.7 and IWC
20 Wage Order No. 9-2001 §11 by failing to ensure that all plaintiffs and
21 similarly situated warehouse workers were provided with a meal period
22 for every five hours worked and twice for every ten hours worked and
23 failed to compensate said employees one hour of wages in lieu of each
24 meal period that was not provided;
- 25 (m) Whether defendants violated California Labor Code §226.7 and IWC
26 Wage Order No. 9-2001 §12 by failing to provide any paid rest periods
27 to plaintiffs and similarly situated warehouse workers for every four
28 hours or major fraction thereof worked and failed to compensate said

employees one hour of wages in lieu of each rest period that was not provided;

(n) Whether the temperature in defendants' warehouses provides plaintiffs and similarly situated warehouse workers reasonable comfort consistent with industry-wide standards as required by IWC Wage Order No. 9-2001 §15;

(o) Whether defendants engaged in unfair and unlawful business practices in violation of Business & Professions Code §17200 et seq.;

(p) Whether defendants are subject to civil penalties under the California Labor Code Private Attorneys General Act, California Labor Code §2698 et seq.;

(q) Whether defendants are joint employers of plaintiffs and similarly situated warehouse workers;

(r) Whether the named defendants conspired with each other and/or with any unnamed co-conspirator, as alleged herein;

(s) Whether any defendants aided and abetted other defendants in the commission of the violations alleged herein;

(t) Whether any defendants acted as the agent of other defendants in the commission of the violations alleged herein; and

(u) What relief is necessary to remedy defendants' unfair and unlawful conduct as herein alleged.

130. Typicality. The claims of the individual plaintiffs are typical of the claims of the class as a whole. Defendants' unlawful wage policies and practices, which have operated to deny plaintiffs the overtime premiums, minimum wages, other unpaid wages, and other compensation, benefits, penalties, and protections required by law, are typical of the unlawful wage policies and practices that have and will continue to operate to deny other class members lawful compensation.

131. Adequacy Of Class Representation. The individual plaintiffs can

1 adequately and fairly represent the interests of the class as defined above, because
2 their individual interests are consistent with, not antagonistic to, the interests of the
3 class.

4 132. Adequacy Of Counsel For The Class. Counsel for plaintiffs have the
5 requisite resources and ability to prosecute this case as a class action and are
6 experienced labor and employment attorneys who have successfully litigated other
7 cases involving similar issues, including in class actions.

8 133. Propriety of Class Action Mechanism. This suit is properly maintainable
9 as a class action under Federal Rule of Civil Procedure 23(b)(2) because defendants
10 have implemented a series of unlawful schemes that are generally applicable to the
11 class, making it appropriate to issue final injunctive relief and corresponding
12 declaratory relief with respect to the class as a whole. This suit is also properly
13 maintainable as a class action under Federal Rule of Civil Procedure 23(b)(3)
14 because the common questions of law and fact predominate over any questions
15 affecting only individual members of the class. For all these and other reasons, a
16 class action is superior to other available methods for the fair and efficient
17 adjudication of the controversy set forth in this Complaint.

18
19 **FIRST CLAIM FOR RELIEF**
20 **(FLSA Violations,**
21 **29 U.S.C. §201 et seq., 29 C.F.R. §516 et seq.,**
22 **Brought by Plaintiffs on Behalf of Themselves**
23 **and the FLSA Collective Plaintiffs)**

24 134. Plaintiffs, on behalf of themselves and similarly situated warehouse
25 workers, reallege and incorporate by reference all previous paragraphs.

26 135. Plaintiffs bring the First Claim for Relief as a collective action pursuant
27 to the FLSA, 29 U.S.C. §216(b), on their own behalf and on behalf of all individuals
28 who applied for employment as a warehouse worker and who were subsequently
assigned to work, and did work, at one or more of defendants' Mira Loma

1 warehouses located in the county of Riverside, California, at some time during the
2 applicable limitations period (hereafter, "FLSA Collective Plaintiffs").

3 136. At all relevant times, defendants Premier, Schneider, Impact, Walmart,
4 and Does 2-15 have been employers and enterprises engaged in interstate commerce
5 within the meaning of the FLSA, 29 U.S.C. §203. At all relevant times, defendants
6 Premier, Schneider, Impact, Walmart, and Does 2-10 have employed some or all of
7 the FLSA Collective Plaintiffs as employees within the meaning of the FLSA, 29
8 U.S.C. §203.

9 137. At all relevant times, plaintiffs and the other FLSA Collective Plaintiffs
10 have been similarly situated; have had substantially similar job requirements, job
11 duties, and pay provisions; and have been subject to defendants' common decisions,
12 policies, programs, practices, procedures, protocols, routines, and rules pursuant to
13 which defendants have willfully failed and refused to pay plaintiffs and the other
14 FLSA Collective Plaintiffs the amounts to which those workers are entitled under the
15 FLSA.

16 138. The First Claim for Relief is properly brought under and maintained as
17 an opt-in collective action pursuant to the FLSA, 29 U.S.C. §216(b). The FLSA
18 Collective Plaintiffs are readily ascertainable and can be given notice about this
19 action through means permitted by the FLSA and *Hoffman-LaRoche v. Sperling*, 493
20 U.S. 165 (1989). To be effective, collective notice should be provided not only
21 through written communication to each class member's last known address as
22 reflected in defendants' records, but also through Spanish language newspaper and
23 radio announcements, workplace postings, and other alternative means of notice
24 designed to reach this class of transient, non-English speaking warehouse workers
25 whom defendants have affirmatively misled and deprived of information concerning
26 their workplace rights under state and federal law and of other information material
27 to the claims alleged herein. Plaintiffs are informed and believe that most collective
28 action members are no longer employed by defendants, cannot be reached at the last-

1 known addresses in defendants' records, and do not have access to traditional
2 English-speaking media.

3 139. Each of the named plaintiffs by this Complaint hereby consents to sue
4 under the FLSA, 29 U.S.C. §216(b). Further consents to sue have been and will be
5 submitted to the Court.

6 140. The FLSA, 29 U.S.C. §207(a), requires defendants to compensate
7 plaintiffs and the FLSA Collective Plaintiffs at 1-1/2 times these workers' regular
8 hourly rate for all work performed by plaintiffs and the FLSA Collective Plaintiffs in
9 excess of 40 hours per workweek.

10 141. Throughout the statute of limitations period covered by these claims, and
11 particularly during certain high-production times of the year, plaintiffs and the FLSA
12 Collective Plaintiffs regularly worked in excess of 40 hours per workweek and
13 continue to do so.

14 142. At all relevant times, defendants willfully, regularly, and repeatedly
15 failed, and continue to fail, to pay plaintiffs and the FLSA Collective Plaintiffs at the
16 required overtime rates, for hours worked in excess of 40 hours per workweek.

17 143. The FLSA, 29 U.S.C. §206, requires defendants to compensate plaintiffs
18 and the FLSA Collective Plaintiffs at the minimum wage rate of at least \$7.25 per
19 hour.

20 144. Since defendants' implementation of their purported "piece rate"
21 compensation schemes, defendants have willfully failed, and continue to fail, to pay
22 the federal minimum wage to plaintiffs and similarly situated warehouse workers for
23 numerous workweeks during which those workers' gross pay divided by the number
24 of hours worked was less than \$7.25 per hour.

25 145. The FLSA imposes specific record-keeping requirements on employers,
26 including the obligation to keep accurate records of all hours worked by employees.
27 Defendants have knowingly and willfully failed, and continue willfully to fail, to
28 record, report, and/or preserve accurate records of all hours worked by plaintiffs and

1 the FLSA Collective Plaintiffs. By failing to record, report, and/or preserve records
2 of all hours worked by plaintiffs and the FLSA Collective Plaintiffs, defendants have
3 violated, and continue to violate, the FLSA, 29 U.S.C. §201 et seq., including 29
4 U.S.C. §§211(c) and 215(a), and 29 C.F.R. §516 et seq.

5 146. The FLSA, 29 U.S.C. §215(a)(3), prohibits employers from discharging
6 or in any other manner discriminating against any employee because such employee
7 has filed any complaint or instituted or caused to be instituted any proceeding under
8 or related to the FLSA, or has testified or is about to testify in any such proceeding.

9 147. Defendants have retaliated and threatened retaliation against plaintiffs
10 and the FLSA Collective Plaintiffs because plaintiffs and other FLSA Collective
11 Plaintiffs complained to defendants regarding FLSA violations and engaged in other
12 protected activity, including filing and testifying in support of this lawsuit, in
13 violation of 29 U.S.C. §215(a)(3).

14 148. Defendants' violations of the FLSA's minimum wage, overtime,
15 recordkeeping, and retaliation provisions are, and were, willful within the meaning
16 of 29 U.S.C. §255.

17 149. As a direct and proximate result of defendants' violations of the
18 minimum wage and overtime provisions as alleged herein, plaintiffs and the FLSA
19 Collective Plaintiffs have sustained economic damages, including but not limited to
20 unpaid wages and lost interest, in an amount to be established at trial, and are
21 entitled to recover economic and statutory damages and penalties, including
22 liquidated damages, and other appropriate relief under the FLSA.

23 150. As a direct and proximate result of defendants' violations of the
24 retaliation provision as alleged herein, plaintiffs and the FLSA Collective Plaintiffs
25 have sustained economic damages, including but not limited to unpaid wages and
26 lost interest, in an amount to be established at trial. Pursuant to 29 U.S.C. §216(b),
27 plaintiffs and the FLSA Collective Plaintiffs are entitled to, and hereby seek, such
28 legal or equitable relief as may be appropriate to effectuate the purposes of FLSA, 29

1 U.S.C. §215(a)(3), including without limitation employment, reinstatement,
2 promotion, and the payment of wages lost and an additional equal amount as
3 liquidated damages, including but not limited to an injunction requiring defendants
4 to cease violating 29 U.S.C. §215(a)(3) by discharging, suspending, threatening, or
5 otherwise discriminating against plaintiffs, the FLSA Collective Plaintiffs, and
6 others similarly situated.

7
8 **SECOND CLAIM FOR RELIEF**
9 **(California Overtime Provisions,**
10 **Cal. Labor Code §§510, 1194(a), 1198**
11 **and IWC Wage Order No. 9-2001 §3, 4(C);**
12 **Brought by Plaintiffs on behalf of**
13 **Themselves and the Schneider-Premier and Impact Classes)**

14 151. Plaintiffs, on behalf of themselves and the Schneider-Premier and Impact
15 classes, reallege and incorporate by reference all previous paragraphs.

16 152. It is unlawful under California law for an employer to suffer or permit an
17 employee to work in excess of eight hours per workday or 12 hours per workday or
18 40 hours per workweek without paying premium wages under California Labor Code
19 §510 and IWC Wage Order No. 9-2001 §3. It is also unlawful under California law
20 for an employer to suffer or permit an employee to work in excess of 30 hours per
21 workweek or six hours per day during any seven-day workweek under Labor Code
22 §§550-56, or to suffer or permit an employee to work on the seventh day of a seven-
23 day workweek without paying premium wages under California Labor Code §510
24 and IWC Wage Order No. 9-2001 §3. Further, when workers are required to work
25 two shifts that are interrupted by a non-paid working period, they must be paid for an
26 extra hour of work pursuant to IWC Wage Order No. 9-2001 §4(C).

27 153. California Labor Code §1198 makes employment of an employee for
28 longer hours than the IWC sets or under conditions the IWC prohibits unlawful.
California Labor Code §1194(a) entitles an employee to recover in a civil action the
unpaid balance of all overtime compensation due but not paid.

1 154. Plaintiffs and members of the Schneider-Premier and Impact classes
2 routinely worked in excess of eight hours per workday and in excess of 40 hours per
3 workweek during the applicable limitations period, and during certain parts of the
4 year plaintiffs and class members routinely worked in excess of 12 hours per day.

5 155. Plaintiffs and members of the Schneider-Premier and Impact classes
6 routinely worked seven-day workweeks in excess of six hours per day and in excess
7 of 30 hours per week during parts of the year during the applicable limitations
8 period.

9 156. Defendants have a policy and practice of not paying plaintiffs and
10 members of the Schneider-Premier and Impact classes properly for overtime, and
11 have not properly compensated plaintiffs and class members properly for their
12 overtime hours under California law.

13 157. Plaintiffs and members of the Schneider-Premier and Impact classes
14 work double shifts with a break in between on certain occasions. Defendants have a
15 policy and practice of not paying plaintiffs and members of the Schneider-Premier
16 and Impact classes an extra hour of pay on those occasions.

17 158. As a direct and proximate result of defendants' unlawful conduct as
18 alleged herein, plaintiffs and members of the Schneider-Premier and Impact classes
19 have sustained economic damages, including but not limited to unpaid wages and
20 lost interest, in an amount to be established at trial, and are entitled to recover
21 economic and statutory damages and penalties and other appropriate relief from
22 defendants' violations of the California Labor Code and IWC Wage Order No. 9-
23 2001.

24
25 **THIRD CLAIM FOR RELIEF**
26 **(California Minimum Wage Provisions,**
27 **Cal. Labor Code §§1182.12, 1194(a), 1194.2(a), 1194.5, 1197, 1198**
28 **and IWC Wage Order No. 9-2001 §4;**
 Brought by Plaintiffs on behalf of
 Themselves and the Schneider-Premier and Impact Classes)

1 159. Plaintiffs, on behalf of themselves and the Schneider-Premier and Impact
2 classes, reallege and incorporate by reference all previous paragraphs.

3 160. California Labor Code §§1182.12 and 1197, and IWC Wage Order No.
4 9-2001 §4, requires defendants to pay plaintiffs and class members at or above the
5 state minimum wage of \$8.00 per hour for every hour defendants suffer or permit
6 those employees to work.

7 161. California Labor Code §1198 makes unlawful the employment of an
8 employee under conditions the IWC prohibits. California Labor Code §§1194(a) and
9 1194.2(a) provide that an employer that has failed to pay its employees the legal
10 minimum wage is liable to pay those employees the unpaid balance of the unpaid
11 wages as well as liquidated damages in an amount equal to the wages unpaid and
12 interest thereon.

13 162. Defendants have failed to pay plaintiffs and members of the
14 Schneider-Premier and Impact classes at or above the California minimum wage for
15 many hours worked by plaintiffs and class members, including but not limited to
16 mandatory on-duty time when no work that defendants characterize as compensable
17 was available to be performed and other hours spent on work that is not reflected in
18 defendants' purported "piece rate" payments.

19 163. As a direct and proximate result of defendants' unlawful conduct as
20 alleged herein, plaintiffs and members of the Schneider-Premier and Impact classes
21 have sustained economic damages, including but not limited to unpaid wages and
22 lost interest, in an amount to be established at trial, and are entitled to recover
23 economic and statutory damages and penalties and other appropriate relief from
24 defendants' violations of the California Labor Code and IWC Wage Order No. 9-
25 2001.

26 164. California Labor Code §1194.5 authorizes injunctions where an
27 employer has willfully violated laws governing wages, hours, or working conditions.
28 Plaintiffs and members of the class are entitled to injunctive relief under the

governing legal standards, and are entitled to an order requiring defendants to pay the minimum wage and to keep track of the time plaintiffs and similarly situated warehouse workers spend on all purported piece rate and non-piece rate work.

**FOURTH CLAIM FOR RELIEF
(California Meal Period Provisions,
Cal. Labor Code §§226.7, 1198
and IWC Wage Order No. 9-2001 §11;
Brought by Plaintiffs on behalf of
Themselves and the Schneider-Premier and Impact Classes)**

165. Plaintiffs, on behalf of themselves and the Schneider-Premier and Impact classes, reallege and incorporate by reference all previous paragraphs.

166. California Labor Code §226.7(a) prohibits an employer from requiring an employee to work during any meal period mandated by an applicable Industrial Wage Order. IWC Wage Order No. 9-2001 §11(A) prohibits employers from employing a worker for more than five hours without a meal period of at least 30 minutes. IWC Wage Order No. 9-2001 §11(B) prohibits employers from employing a worker for more than ten hours without a second meal period of at least 30 minutes. Under both California Labor Code §226.7(b) and IWC Wage Order No. 9-2001 §11(D), if an employer fails to provide an employee a meal period as required, the employer must pay the employee one hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided as required.

167. California Labor Code §1198 makes unlawful the employment of an employee under conditions the IWC prohibits.

168. Defendants have a policy or practice of failing to ensure that all plaintiffs and members of the Schneider-Premier and Impact classes take the meal periods required by California Labor Code §226.7 and IWC Wage Order No. 9-2001 §12.

169. Defendants also have a policy or practice of failing to pay each of their employees who was not provided with a meal period as required an additional one hour of compensation at each employee's regular rate of pay.

1 170. As a direct and proximate result of defendants' unlawful conduct as
2 alleged herein, plaintiffs and members of the Schneider-Premier and Impact classes
3 have sustained economic damages, including but not limited to unpaid wages and
4 lost interest, in an amount to be established at trial, and are entitled to recover
5 economic and statutory damages and penalties and other appropriate relief from
6 defendants' violations of the California Labor Code and IWC Wage Order No. 9-
7 2001.

8
9 **FIFTH CLAIM FOR RELIEF**
10 **(California Rest Period Provisions,**
11 **Cal. Labor Code §§226.7, 1198**
12 **and IWC Wage Order No. 9-2001 §12;**
13 **Brought by Plaintiffs on behalf of**
14 **Themselves and the Schneider-Premier and Impact Classes)**

15 171. Plaintiffs, on behalf of themselves and the Schneider-Premier and Impact
16 classes, reallege and incorporate by reference all previous paragraphs.

17 172. California Labor Code §226.7(a) prohibits an employer from requiring
18 an employee to work during any rest period mandated by an applicable Industrial
19 Wage Order. IWC Wage Order No. 9-2001 §12(A) requires employers to authorize
20 and permit employees to take a paid rest period of at least 10 minutes for every four
21 hours worked or major fraction thereof, which insofar as practicable shall be in the
22 middle of each work period. Under both California Labor Code §226.7(b) and IWC
23 Wage Order No. 9-2001 §12(B), if an employer fails to provide an employee a rest
24 period as required, the employer must pay the employee one hour of pay at the
25 employee's regular rate of compensation for each workday that a rest period is not
26 provided as required.

27 173. California Labor Code §1198 makes unlawful the employment of an
28 employee under conditions the IWC prohibits.

1 174. Defendants have a policy or practice of failing to authorize and permit
2 plaintiffs and class members to take, on time or at all, the rest periods required by
3 California Labor Code §226.7 and IWC Wage Order No. 9-2001 §12.

4 175. Defendants also have a policy or practice of failing to pay each of their
5 employees who was not provided with a rest period as required an additional one
6 hour of compensation at each employee's regular rate of pay.

7 176. As a direct and proximate result of defendants' unlawful conduct as
8 alleged herein, plaintiffs and members of the Schneider-Premier and Impact classes
9 have sustained economic damages, including but not limited to unpaid wages and
10 lost interest, in an amount to be established at trial, and are entitled to recover
11 economic and statutory damages and penalties and other appropriate relief from
12 defendants' violations of the California Labor Code and IWC Wage Order No. 9-
13 2001.

14
15 **SIXTH CLAIM FOR RELIEF**
16 **(California Reporting Time Pay Provisions,**
17 **Cal. Labor Code §1198**
18 **and IWC Wage Order No. 9-2001 §5;**
19 **Brought by Plaintiffs on behalf of**
20 **Themselves and the Schneider-Premier and Impact Classes)**

21 177. Plaintiffs, on behalf of themselves and the Schneider-Premier and Impact
22 classes, reallege and incorporate by reference all previous paragraphs.

23 178. For each workday an employee is required to report for work and does
24 report, but is not put to work or is furnished less than half of said employee's usual
25 or scheduled day's work, IWC Wage Order No. 9-2001 §5 requires the employer to
26 pay the employee a minimum of two hours or half of the employee's usual or
27 scheduled day's work, at the employee's regular rate of pay.

28 179. California Labor Code §1198 makes unlawful the employment of an
employee under conditions the IWC prohibits.

180. Defendants have a policy or practice of failing to provide plaintiffs and members of the Schneider-Premier and Impact classes any reporting time pay when they require workers to report to work but fail to put the employees to work or furnish the employees with less than half their usual or scheduled day's work. This failure to provide reporting time pay occurs both at the beginning of the day and when defendants send workers home or otherwise lay off workers mid-shift, for disciplinary reasons or otherwise.

181. As a direct and proximate result of defendants' unlawful conduct as alleged herein, plaintiffs and members of the Schneider-Premier and Impact classes have sustained economic damages, including but not limited to unpaid wages and lost interest, in an amount to be established at trial, and are entitled to recover economic and statutory damages and penalties and other appropriate relief from defendants' violations of the California Labor Code and IWC Wage Order No. 9-2001.

**SEVENTH CLAIM FOR RELIEF
(California Recordkeeping Provisions,
Cal. Labor Code §§1174, 1194.5, 1198
and IWC Wage Order No. 9-2001 §7;
Brought by Plaintiffs on behalf of
Themselves and the Schneider-Premier and Impact Classes)**

182. Plaintiffs, on behalf of themselves and the Schneider-Premier and Impact classes, reallege and incorporate by reference all previous paragraphs.

183. California Labor Code §1174(c)-(d) requires employers to keep records showing the names and addresses of all employees employed, and to keep, at a central location in the State of California or at the plants 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, all employees employed at the respective plants or establishments. IWC Wage Order No. 9-2001 §7(A)(3) further requires employers to keep time records

1 showing when the employee begins and ends each work period, meal period, and
2 split shift interval. Under §7(A)(5), employers must also record each employee's
3 total hours worked and applicable rates of pay, and must make such information
4 "readily available" to the employee upon request. Under §7(A)(6), when a piece rate
5 or incentive plan is in effect, the employer must provide to employees the piece rates
6 and an explanation of the incentive plan formula, and the employer must maintain
7 "an accurate production record." Under §7(C), all required records must be in the
8 English language and in ink or other indelible form, properly dated, showing month,
9 day, and year; must be kept on file by the employer for at least three years at the
10 place of employment or at a central location within the State of California; and must
11 be available for inspection by an employee upon reasonable request.

12 184. California Labor Code §1198 makes unlawful the employment of an
13 employee under conditions the IWC prohibits.

14 185. Pursuant to defendants' policy or practice, defendants have willfully
15 failed, and continue willfully to fail, to maintain accurate, complete, and readily
16 available records, in violation of California Labor Code §1174 and IWC Wage Order
17 No. 9-2001 §7.

18 186. Although plaintiffs and other members of the Schneider-Premier and
19 Impact classes have requested defendants to produce certain required records,
20 defendants have not provided those records.

21 187. Plaintiffs and members of the Schneider-Premier and Impact classes
22 have suffered and will continue to suffer actual economic harm resulting from these
23 recordkeeping violations, as they have been, and will continue to be, precluded from
24 accurately monitoring the wages to which they are entitled, have been required to
25 retain counsel and other experts and consultants to evaluate and calculate unpaid
26 wages, and have suffered delays in receiving the wages and interest that are due and
27 owing to them. Defendants' ongoing violations of these mandatory recordkeeping
28 laws have caused, and will continue to cause, irreparable harm to plaintiffs and class

1 members, among other reasons because as long as defendants fail to maintain the
2 required records, plaintiffs and members of the Schneider-Premier and Impact
3 classes will be unable to determine or demonstrate the precise number of hours
4 actually worked, or the wages and penalties owed to them for the long hours that
5 defendants have required them to work.

6 188. By willfully failing to maintain the records required by California Labor
7 Code §1174(c) or the accurate and complete records required by §1174(d),
8 defendants are also liable for a civil penalty of five hundred dollars for each
9 violation under §1174.5.

10 189. California Labor Code §1194.5 authorizes issuance of and injunction
11 where an employer has willfully violated laws governing wages, hours, or working
12 conditions. Plaintiffs and members of the class are entitled to injunctive relief under
13 the governing legal standards, and are entitled to an order requiring defendants to
14 provide plaintiffs and members of the class all of the information required by
15 California Labor Code §1174 and IWC Wage Order No. 9-2001.

16
17 **EIGHTH CLAIM FOR RELIEF**
18 **(California Itemized Wage Statement Provisions,**
19 **Cal. Labor Code §§226, 1198**
20 **and IWC Wage Order No. 9-2001 §7(B);**
21 **Brought by Plaintiffs on behalf of**
22 **Themselves and the Schneider-Premier and Impact Classes)**

23 190. Plaintiffs, on behalf of themselves and the Schneider-Premier and Impact
24 classes, reallege and incorporate by reference all previous paragraphs.

25 191. California Labor Code §226(a) requires employers semimonthly or at
26 time of paying wages to provide to their employees the following information: total
27 hours worked, all applicable hourly rates, the number of piece rate units earned, any
28 applicable piece rate, and deductions. IWC Wage Order No. 9-2001 §7(B) requires
employers semimonthly or at the time of each payment of wages to furnish to each
employee an itemized statement in writing showing the following information: all