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7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
8 IN AND FOR KING COUNTY

9  
10 JOSEPH HENDERSON, on his own behalf and  
11 on the behalf of all others similarly situated,

12 Plaintiff,

13 v.

14 CAFFÈ VITA, INC., a Washington Corporation;

15 Defendant.  
16

CLASS ACTION

No. 19-2-27543-0 SEA

PLAINTIFF'S AMENDED  
COMPLAINT FOR DAMAGES

**JURY TRIAL REQUESTED**

17  
18 Plaintiff, individually and on behalf of all others similarly situated, by and through his  
19 counsel, for his Complaint against Defendant hereby states and alleges as follows:

20 **I. NATURE OF THE ACTION**

21 **1.** Defendant CAFFÈ VITA, INC. ("Caffe Vita") is in the business of roasting, distributing, and  
22 selling coffee, as well as selling other food and beverages in King County, including in the City of  
23 Seattle.

24 **2.** During the past several years, Defendant has employed Plaintiff and other hourly-paid  
25 employees at its facilities in King County, including in the City of Seattle, whose primary job duties  
26 are to prepare and sell coffee, food, and other beverages to Defendant's customers (commonly

1 referred to as baristas). On information and belief, Defendant has employed more than forty (40)  
2 such employees in Seattle and King County, as set forth below, in the last three years.

3 **3.** As set forth more fully below, Defendant has engaged in a systemic policy and practice of  
4 denying rest breaks – and thereby wages – to these non-exempt barista employees. Defendant has  
5 failed to compensate these employees for missed rest breaks.  
6

7 **4.** Defendant’s deliberate failure to pay these employees, including Plaintiff, their earned wages  
8 violates Washington law and Seattle City Ordinance.

9 **5.** Plaintiff and proposed Class members are current and former hourly-paid barista employees  
10 employed by Defendant in King County who have been victimized by the Defendant’s unlawful  
11 compensation practices. This lawsuit is brought as a class action under local and state law to recover  
12 unpaid wages owed to the individual Plaintiff and all other similarly situated employees.  
13

14 **II. JURISDICTION AND VENUE**

15 **6.** Venue is proper in King County because Defendant transacts business in King County and  
16 some of the specific acts alleged herein occurred in King County, including in the City of Seattle.

17 **7.** Defendant is within the jurisdiction of this Court. Defendant does business in the State of  
18 Washington and has operations in Seattle and King County, Washington.

19 **8.** Caffè Vita is registered in the State of Washington. Defendant has obtained the benefits of  
20 the laws of the State of Washington and the Washington retail and labor markets. It has also obtained  
21 the benefits of the City of Seattle retail and labor markets.  
22

23 **9.** There is no CAFA jurisdiction. Federal jurisdiction is inappropriate under the Class Action  
24 Fairness Act, 28 U.S.C. § 1332(d)(4)(A), because more than two-thirds of the members of the  
25 proposed plaintiff class in the aggregate are citizens of Washington; Defendant is a party from whom  
26 significant relief is sought by members of the plaintiff class; the alleged conduct of Defendant forms

1 a significant basis for the claims asserted by the proposed plaintiff class; Defendant is a Washington  
2 corporation; the principal injuries resulting from the alleged conduct were incurred in Washington;  
3 and, during the three-year period preceding the filing of this action, no other class action has been  
4 filed asserting same or similar factual allegations against the Defendant on behalf of the same or  
5 other persons. Alternatively, federal jurisdiction is inappropriate under the Class Action Fairness  
6 Act, 28 U.S.C. § 1332 (d)(4)(B), because two-thirds or more of the members of all proposed plaintiff  
7 classes in the aggregate, and Defendant, are citizens of the state of Washington.  
8

### 9 **III. PARTIES**

10 **10.** Defendant Caffe Vita is a Washington corporation, registered in the State of Washington,  
11 and it maintains a business license in the City of Seattle. Caffe Vita has obtained the benefits of the  
12 laws of the State of Washington and the Washington retail and labor markets. It has also obtained  
13 the benefits of the City of Seattle retail and labor markets.  
14

15 **11.** Named Plaintiff Joseph Henderson (“Mr. Henderson” or “Henderson”) is a resident of the  
16 State of Washington and has been an hourly-paid barista employee of Defendant working in the City  
17 of Seattle and King County since approximately January 2016. Mr. Henderson routinely worked for  
18 Defendant in the City of Seattle more than two hours per week.  
19

### 20 **IV. CLASS ACTION ALLEGATIONS**

21 **12.** Plaintiff and the proposed Class reallege and incorporate by reference each and every  
22 allegation set forth in the preceding paragraphs.  
23

24 **13.** Plaintiff brings this case as a class action pursuant to Washington Civil Rule 23 on behalf of  
25 a class consisting of:

26 All current and former non-managerial hourly employees of Caffe Vita within King County  
at any time since October 18, 2016 whose primary job duties include preparing and/or selling  
coffee, food, and other beverages to Defendants’ customers.

1 Excluded from this Class are Defendant, any entity in which Defendant has a controlling interest or  
2 which has controlling interest in Defendant, and Defendant's legal representatives, assignees, and  
3 successors. Also excluded are the Judge(s) to whom this case is assigned and any member of the  
4 Judge's immediate family.

5 **14.** Plaintiff believes there are least 40 current and former employees in the proposed Class.

6 **15.** Plaintiff's claims are typical of the claims of the members of the proposed Class because he  
7 is a non-managerial hourly employee who has worked for Caffe Vita as a barista whose primary job  
8 duties are to prepare and sell coffee, food, and other beverages to Defendant's customers, and who,  
9 like the members of the proposed Class, sustained damages arising out of Defendant's failure to pay  
10 wages for missed rest breaks.  
11

12 **16.** Plaintiff will fairly and adequately protect the interests of the proposed Class members.  
13 Plaintiff has retained counsel who are competent and experienced in complex and class action  
14 litigation, including employment law.  
15

16 **17.** Common questions of law and fact exist as to Plaintiff and all members of the proposed Class  
17 and predominate over any questions solely affecting individual members of the proposed Class.  
18 Among the questions of law and fact common to proposed Plaintiff and the Class are:

19 **a.** Whether Defendant engaged in a common course of failing to provide Plaintiff and the  
20 proposed Class with a 10-minute rest break for every four hours of work;

21 **b.** Whether Defendant failed to provide Plaintiff and the proposed Class with a method to  
22 report missed rest breaks;

23 **c.** Whether Defendant failed to pay Plaintiff and the proposed Class for missed rest breaks,  
24 whether reported or not;  
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1           **d.** Whether Defendant failed to pay Plaintiff and the proposed Class for the work Defendant  
2 permitted them to perform;

3           **e.** Whether Defendant failed to properly compensate Plaintiff and the proposed Class for  
4 all hours worked;

5           **f.** Whether Defendant has engaged in a common course of failing to pay Plaintiff and the  
6 proposed Class all overtime compensation to which they are entitled;

7           **g.** Whether Defendant violated RCW 49.12 *et seq.* as to Plaintiff and the proposed Class;

8           **h.** Whether Defendant violated RCW 49.46.090 as to Plaintiff and the proposed Class;

9           **i.** Whether Defendant violated RCW 49.46.130 as to Plaintiff and the proposed Class;

10           **j.** Whether Defendant violated RCW 49.52.050 as to Plaintiff and the proposed Class;

11           **k.** Whether Defendant violated WAC 296-126-092 as to Plaintiff and the proposed Class;

12           **l.** Whether Defendant violated WAC 296-126-040 as to Plaintiff and the proposed Class;

13           **m.** Whether Defendant violated WAC 296-128-010 as to Plaintiff and the proposed Class;

14           **n.** Whether Defendant violated WAC 296-128-020 as to Plaintiff and the proposed Class;

15           **o.** Whether Defendant violated SMC 14.19 *et seq.* and 14.20 *et seq.* as to Plaintiff and the  
16 proposed Class; and  
17

18           **p.** The nature and extent of class-wide injury and the measure of compensation for such  
19 injury.  
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21           **18.** Class action treatment is superior to the alternatives for the fair and efficient adjudication of  
22 the controversy alleged herein. Class action treatment will permit a large number of similarly-  
23 situated persons to prosecute their modest, purely economic, common claims in a single forum  
24 simultaneously, efficiently, and without duplication of effort and expense that numerous individual  
25 actions would entail. No difficulties are likely to be encountered in the management of this class  
26

1 action that would preclude its maintenance as a class action, and no superior alternative exists for the  
2 fair and efficient adjudication of this controversy. The proposed Class is readily identifiable from  
3 Defendants' records.

4 **19.** Defendants have acted on grounds generally applicable to the entire proposed Class, thereby  
5 making a final injunctive relief or corresponding declaratory relief appropriate with respect to the  
6 proposed Class as a whole. Prosecution of separate actions by individual members of the proposed  
7 Class would create a risk of inconsistent or varying adjudications with respect to individual members  
8 of the proposed Class that would establish incompatible standards of conduct for Defendants.

9 **20.** A class action is superior to other available methods for the fair and efficient adjudication of  
10 this controversy since joinder of all matters is impractical. Furthermore, the amounts at stake for  
11 many of the proposed Class, while substantial to them, are not great enough to hire an attorney to  
12 prosecute individual suits against Defendant.

13 **21.** Without a class action, Defendant will likely continue its course of illegal action which will  
14 cause further damage to Plaintiff and the proposed Class.

15 **V. SUMMARY OF CLASS ACTION FACTUAL ALLEGATIONS**

16 **22.** Plaintiff and the proposed Class reallege and incorporate by reference each and every  
17 allegation set forth in the preceding paragraphs.

18 **23.** Beginning at a date currently unknown to Plaintiff, but at least as early as October 2016,  
19 Defendant committed, and continues to commit, acts of wage abuse against its employees, including,  
20 but not limited to, forcing or permitting Plaintiff and the proposed Class to work through their  
21 mandated rest breaks and failing to pay Plaintiff and the proposed Class their wages due and owing.

22 **24.** Defendant violated the above-identified laws and regulations by not paying Plaintiff and the  
23 proposed Class for rest break periods. Defendant has failed to schedule rest breaks for Plaintiff and  
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1 the proposed Class. Defendant has failed to ensure that Plaintiff and the proposed Class can report  
2 missed rest breaks.

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4 **VI. FIRST CLAIM FOR RELIEF**  
5 **(Violations of RCW 49.12.020 and WAC 296-126-092—**  
6 **Failure to Provide Rest Periods)**  
7 ***On Behalf of Plaintiff and the Class***

8  
9 **25.** RCW 49.12.010 provides that “[t]he welfare of the state of Washington demands that all  
10 employees be protected from conditions of labor which have a pernicious effect on their health. The  
11 state of Washington, therefore, exercising herein its police and sovereign power declares that  
12 inadequate wages and unsanitary conditions of labor exert such pernicious effect.”

13 **26.** RCW 49.12.020 provides that “[i]t shall be unlawful to employ any person in any industry  
14 or occupation within the state of Washington under conditions of labor detrimental to their health.”

15 **27.** Under RCW 49.12.005 and WAC 296-126-002, “conditions of labor” “means and includes  
16 the conditions of rest and meal periods” for employees.

17 **28.** WAC 296-126-092 provides that employees shall be allowed certain paid rest periods during  
18 their shifts.

19 **29.** Under Washington law, Defendant has an obligation to provide employees with the rest  
20 breaks to which they are entitled.

21 **30.** Under Washington law, Defendant has an obligation to ensure that employees take the rest  
22 breaks to which they are entitled.

23 **31.** Under Washington law, Defendant has an obligation to keep records of missed rest and  
24 breaks.

25 **32.** Under Washington law, Defendant has an obligation to provide employees with 10 minutes  
26 of additional pay for each missed rest break.

1       **33.** By the actions alleged above, Defendant has violated the provisions of RCW 49.12.020 and  
2 WAC 296-126-092.

3       **34.** As a result of the unlawful acts of Defendant, Plaintiff and members of the Class have been  
4 deprived of compensation in amounts to be determined at trial, and Plaintiff and members of the  
5 proposed Class are entitled to the recovery of such damages, including interest thereon, attorneys'  
6 fees under RCW 49.48.030, and costs.  
7

8                                   **VII. SECOND CLAIM FOR RELIEF**  
9                   **(Minimum Wage Act: RCW 49.46 *et seq.*; Seattle Municipal Code**  
10                   **("SMC") 14.19 *et seq.*, & SMC 14.20 *et seq.*)**  
11                                   ***On Behalf of Plaintiff and the Class***

12       **35.** Plaintiff and the proposed Class reallege and incorporate by reference each and every  
13 allegation set forth in the preceding paragraphs.

14       **36.** Under RCW 49.46.090, employers must pay employees all wages to which they are entitled  
15 under the Washington Minimum Wage Act ("WMWA"), RCW 49.46 *et seq.* If the employer fails  
16 to do so, RCW 49.46.090 requires that the employer pay the employees the full amount of the  
17 statutory minimum wage rate less any amount actually paid to the employees.

18       **37.** RCW 49.46.130 provides that no employer shall employ any employee for a workweek  
19 longer than 40 hours unless the employee receives compensation for his or her employment in excess  
20 of the hours above specified at a rate not less than one and half times the regular rate at which he or  
21 she is employed.

22       **38.** SMC 14.19.035 provides for a minimum wage for employees of employers that employ 500  
23 or fewer employees who perform more than two hours of work within the City of Seattle during a  
24 two-week period.  
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1           **39.** Under SMC 14.20.020, an employer shall pay all compensation owed to an employee by  
2 reason of employment on an established regular pay day at no longer than monthly payment  
3 intervals.

4           **40.** Defendant failed to pay Plaintiff and the proposed Class for all time worked. Defendant  
5 engaged in a common course of conduct of failing to provide Plaintiff and the proposed Class with  
6 10 minutes of additional pay for each missed rest break.

7           **41.** By the actions alleged above, Defendant violated the provisions of RCW 49.46.090, RCW  
8 49.46.130, and SMC 14.19 *et seq.* and 14.20 *et seq.* by failing to pay wages to Plaintiff and the  
9 proposed Class for all the time they worked, including but not limited to missed rest breaks, including  
10 when the missed breaks occurred during workweeks when Plaintiff and the proposed Class worked  
11 in excess of 40 hours that week.

12           **42.** Defendant violated the WMWA by not allowing and/or paying Plaintiff and the proposed  
13 Class for mandated break periods. Defendant engaged in a common course of conduct by permitting  
14 and/or encouraging Plaintiff and the proposed Class members to work during mandated meal and/or  
15 rest periods.

16           **43.** . Defendant engaged in a common course of conduct by failing to ensure that Plaintiff and  
17 the proposed Class have taken the meal and/or rest breaks to which they are entitled. Defendant failed  
18 to schedule Plaintiff's the proposed Class's breaks.

19           **44.** Defendant has had actual or constructive knowledge of the above facts.

20           **45.** By the actions alleged above, Defendant violated the provisions of RCW 49.46 *et seq.*

21           **46.** As a result of Defendant's unlawful acts, Plaintiff and the proposed Class have been deprived  
22 of compensation in amounts to be determined at trial, and pursuant to RCW 49.46, SMC 14.19 *et*  
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1 *seq.*, and 14.20 *et seq.* are entitled to recover such amounts, including interest thereon, attorneys'  
2 fees, and costs.

3 **IX. THIRD CLAIM FOR RELIEF**  
4 **(Willful Refusal to Pay Wages: RCW 49.52.050)**  
5 ***On Behalf of Plaintiff and the Class***

6 **47.** Plaintiff and the proposed Class reallege and incorporate by reference each and every  
7 allegation set forth in the preceding paragraphs.

8 **48.** RCW 49.52.050(2) provides that any employer who “willfully and with intent to deprive the  
9 employee of any part of his wages, pays any employee a lower wage than the wage such employer  
10 is obligated to pay such employee by any statute, ordinance, or contract” is guilty of a misdemeanor.

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

14 **50.** Defendant’s alleged unlawful actions against Plaintiff and the proposed Class, as set forth  
15 above, were committed willfully and with intent to deprive Plaintiff and the proposed Class of part  
16 of their wages.

17 **51.** As such, based on the above allegations, Defendant violated the provisions of RCW  
18 49.52.050.

19 **52.** Because of Defendant’s unlawful acts, Plaintiff and the proposed Class have been deprived  
20 of compensation in amounts to be determined at trial, and pursuant to RCW 49.52.070 are entitled  
21 to recovery exemplary damages of twice such amount of unpaid compensation, including interest  
22 thereon, attorney fees, and costs.  
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25 **XIII. PRAYER FOR RELIEF**  
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1           Wherefore, Plaintiff, on his own behalf and on behalf of the members of the proposed Class,  
2 pray for judgment against the Defendant as follows:

3           **A.** Certification of the proposed Class;

4           **B.** A declaration that Defendant is financially responsible for notifying all Class members of its  
5 wage and hour violations;

6           **C.** Appoint Plaintiff Joseph Henderson as Class representative;

7           **D.** Appoint the undersigned counsel as Class counsel;

8           **E.** Declare that the actions complained of herein violate Washington law, administrative codes,  
9 and Seattle City Ordinance;

10           **F.** Award Plaintiff and the Class compensatory, exemplary, and liquidated damages;

11           **G.** Enjoin Defendant and its officers, agents, successors, employees, representatives, and any  
12 and all persons acting in concert with them, as provided by law, from engaging in each of the  
13 unlawful practices, patterns, and policies set forth herein;

14           **H.** Award Plaintiff and the Class attorney fees and costs, as allowed by law;

15           **I.** Award Plaintiff and the Class pre-judgment and post-judgment interest, as provided by law;  
16 and,

17           **J.** Grant such other and further relief as this Court deems necessary.  
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1 DATED this 30<sup>th</sup> day of March, 2020.

2 **REKHI & WOLK, P.S.**

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16 *Attorneys for Plaintiff*

1 **CERTIFICATE OF SERVICE**

2 I, Jeff Mead, certify and declare that I am now and at all times herein mentioned was a  
3 citizen of the United States and resident of the State of Washington, over the age of eighteen  
4 years, not a party to the above-entitled action, and am competent to testify as a witness. I am a  
5 Legal Assistant employed with Rekhi & Wolk, P.S., 529 Warren Ave N., Suite 201, Seattle,  
6 Washington 98109. On March 30, 2020, I served the within document(s):

- 7 • Plaintiff’s Amended Complaint

8 *Attorneys for Defendant*

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 Via Facsimile  
 Via Electronic Mail  
 Via U.S. Mail  
 Via Electronic Filing/Eservice

14  
15 The foregoing statement is made under the penalty of perjury under the laws of the United  
16 States of America and the State of Washington and is true and correct.

17 DATED this 30<sup>th</sup> day of March, 2020.

18  
19 By: *s/ Jeff Mead* \_\_\_\_\_  
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