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11 JOSUE GAMINO, MANUEL HERNANDEZ,
And DIEGO RODRIGUEZ GARCIA, individually and
12 as Private Attorneys General

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **COUNTY OF SANTA BARBARA – ANACAPA DIVISION**

15 EPIFANIO ARMENTA, ALEX GARCIA,
JOSE ALBARRAN HERNANDEZ,
16 JOSUE GAMINO, MANUEL
HERNANDEZ, and DIEGO RODRIGUEZ
17 GARCIA, individually and as Private
Attorneys General,

18 Plaintiffs,

19 v.
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21 R. J. CARROLL & SONS, INC., a
corporation; STUART CARROLL, an
22 individual; and DOES 1-25, inclusive,

23 Defendants.
24

ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
7/20/2020 12:40 PM
By: Narzralli Baksh, Deputy

Case No. 20CV02360

Assigned for All Purposes to:

COMPLAINT

Trial Date: None

Complaint filed:

25 COMES NOW Plaintiffs EPIFANIO ARMENTA, ALEX GARCIA, JOSE ALBARRAN
26 HERNANDEZ, JOSUE GAMINO, MANUEL HERNANDEZ, and DIEGO RODRIGUEZ
27 GARCIA, individually and as Private Attorneys General (“Plaintiffs” or “Employees”), who assert
28 claims against R. J. CARROLL & SONS, INC., a corporation, and STUART CARROLL, an

1 individual, and DOES 1 through 25, inclusive (collectively “Defendants” or “Employer”) as
2 follows:

3 **INTRODUCTION**

4 1. Plaintiffs are filing this action in their individual capacity to seek restitution,
5 damages, statutory penalties, and other remedies for Defendants’ violations of the California
6 Labor Code occurring from April 6, 2016, through the conclusion of this action (“4-Year Statutory
7 Period”). Plaintiffs Epifanio Armenta, Alex Garcia, and Manuel Hernandez also bring this action
8 for civil penalties under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor
9 Code sections 2698, *et seq.*, on behalf of the State of California for themselves, approximately
10 more than 20 similarly situated current and former aggrieved employees employed by Defendants
11 between February 21, 2019 and the conclusion of this action (“1-Year Statutory Period”), and the
12 People of the State of California (hereinafter collectively “Employees”).

13 2. PAGA, specifically Section 2699, subdivision (a) of the California Labor Code,
14 permits an aggrieved employee to recover civil penalties set forth within the California Labor
15 Code for violations of the California Labor Code. In addition, Section 2699(f) establishes civil
16 penalties for violations of California Labor Code provisions that do not contain their own civil
17 penalties. Employees bring this civil action to recover civil penalties for the violations identified
18 below, including civil penalties pursuant to Section 2699, subdivision (f) as well as those civil
19 penalties specifically set forth within the text of the California Labor Code. Those civil penalties
20 are sought for violations committed against Employees of Employers.

21 3. Pursuant to Section 2699.3, Plaintiffs gave proper notice to the California Labor
22 and Workforce Development Agency, the California Division of Occupational Safety and Health,
23 and Defendants of the specific provisions of the California Labor Code alleged to have been
24 violated, including the facts and theories to support the alleged violation. Plaintiffs incorporate
25 said Notice of Claims by this reference as if fully set forth herein. The LWDA and Cal/OSHA
26 neither inspected nor investigated the violations. With respect to those violations alleged herein
27 that were curable under Subdivision (c)(1), the Employers failed to cure the violations within the
28 time provided under PAGA. Plaintiffs and Employees are, therefore, entitled to all civil penalties

1 pursuant to Sections 2699(a), and pursuant to Section 2699(f), in addition to Plaintiff's costs and
2 attorneys' fees.

3 **JURISDICTION AND VENUE**

4 4. This Court has jurisdiction over this action pursuant to the California Constitution,
5 Article VI, §10.

6 5. Venue is proper in this Court because this action arises from employment in
7 Southern Santa Barbara County.

8 **PARTIES**

9 6. For all times relevant herein, EPIFANIO ARMENTA was an adult individual
10 residing in Santa Barbara County, California.

11 7. For all times relevant herein, ALEX GARCIA was an adult individual residing in
12 Santa Barbara County, California.

13 8. For all times relevant herein, JOSE ALBARRAN HERNANDEZ was an adult
14 individual residing in Santa Barbara County, California.

15 9. For all times relevant herein, JOSUE GAMINO was an adult individual residing in
16 Santa Barbara County, California.

17 10. For all times relevant herein, MANUEL HERNANDEZ was an adult individual
18 residing in Santa Barbara County, California.

19 11. For all times relevant herein, DIEGO RODRIGUEZ GARCIA was an adult
20 individual residing in Santa Barbara County, California.

21 12. For all times relevant herein, Plaintiffs are informed and believe, and on that basis
22 allege, that Defendant R. J. CARROLL & SONS, INC. was and is a California corporation with its
23 principal California place of business in Santa Barbara, CA.

24 13. For all times relevant herein, STUART CARROLL was an adult individual
25 residing in Santa Barbara County, California.

26 14. Whenever in this Complaint reference is made to any act, deed, or conduct of
27 Defendants, the allegation means that Defendants engaged in the act, deed, or conduct by or
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1 through one or more of its agents, employees, or representatives, who was actively engaged in the
2 management, direction, control, or transaction of the business and affairs of Defendants.

3 15. Plaintiffs are ignorant of the true names and capacities, whether individual,
4 corporate, associate, or otherwise, of the defendants sued herein as Does 1 through 25, inclusive,
5 and therefore sues said defendants (the "Doe Defendants") by such fictitious names. Plaintiffs
6 will amend this Complaint to insert the true names and capacities of the Doe Defendants at such
7 time as the identities of the Doe Defendants are ascertained. Plaintiffs are informed and believe,
8 and based thereon allege, that the Doe Defendants are the partners, agents, or principals and co-
9 conspirators of Defendants, and of each other; that Defendants and the Doe Defendants performed
10 the acts and conduct herein alleged directly, aided and abetted the performance thereof, or
11 knowingly acquiesced in, ratified, and accepted the benefits of such acts and conduct, and
12 therefore each of the Doe Defendants is liable to the extent of the liability of Defendants as alleged
13 herein.

14 16. Plaintiffs are further informed and believe, and thereon allege, that at all times
15 herein material, each Defendant was completely dominated and controlled by its co-Defendant(s)
16 and each was the alter ego of the other. Whenever and wherever reference is made in this
17 Complaint to any conduct by Defendants, or any of them, such allegations and references shall
18 also be deemed to mean the conduct of each of the Defendants, acting individually, jointly, and
19 severally. Whenever and wherever reference is made to individuals who are not named as
20 defendants in this Complaint, but were employees and/or agents of Defendants, such individuals at
21 all relevant times acted on behalf of Defendants named in this Complaint within the scope of their
22 respective employment or agency with Defendants.

23 **FIRST COUNT**

24 **Failure to Pay Wages**

25 **(By All Plaintiffs against All Defendants)**

26 17. Plaintiffs incorporate by reference and realleges each and every allegation
27 contained above, as though fully set forth herein.

1 18. The conditions of labor under the applicable Industrial Welfare Commission order
2 includes a requirement that Employer pay reporting time pay under certain circumstances. Each
3 workday that an employee is required to report to the work site and does report, but is not put to
4 work or is furnished less than half of his/her usual or scheduled day's work, the employer shall
5 pay him/her for half the usual or scheduled day's work, but in no event for less than two (2) hours
6 nor more than four (4) hours at the employee's regular rate of pay, which shall not be less than the
7 minimum wage. Labor Code sections 1197, 1198, and 204 required Employer to timely pay
8 Employees the foregoing wages, which Employer failed to do.

9 19. Throughout the period from April 6, 2017, through the conclusion of this action
10 ("3-Year Statutory Period") and at all other times relevant to this action, Employer required
11 Employees including Plaintiffs to report to work at Employer's office each morning. Until
12 recently, Employer regularly sent Employees home at the beginning of the workday, advising
13 them that there was no work for the day. Employer would send Employees home without paying
14 them half of their usual or scheduled day's work (i.e., the maximum 4 hours required by the IWC
15 order), in violation of Employer's legal duty.

16 20. Additionally, when the Employer employed Plaintiffs for public works projects,
17 Plaintiffs are informed and believe that Employer failed to pay at least the general prevailing rate
18 of per diem wages for work of a similar character in the locality in which the public work is
19 performed in violation of Labor Code §§ 1770, et seq.

20 21. Additionally, the Employer required Plaintiff Manuel Hernandez to regularly work
21 more than 8 hours in a single day, but failed to pay these Employees at the applicable overtime
22 rates for such work.

23 22. Accordingly, Plaintiffs are entitled to recover the amount of their unpaid wages
24 pursuant Labor Code sections 200, 500, 510, and 1198, among others, for work performed
25 throughout Plaintiffs' course of employment, which is to be determined according to proof at the
26 time of trial.

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23. Pursuant to Labor Code sections 218.6, 1194, 1194.2, and Civil Code section 3289, among other sources of law, Plaintiff is entitled to recover liquidated damages, the unpaid balance of wages owed, interest, attorneys' fees, expenses, and costs of suit.

24. Employer is also liable for civil penalties.

SECOND COUNT

Failure to Provide Compliant Meal, Rest, and Recovery Periods

(By All Plaintiffs against All Defendants)

25. Plaintiffs incorporate by reference and realleges each and every allegation contained above, as though fully set forth herein.

26. “An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation....” Cal. Lab. Code, § 226.7, subd. (b). Pursuant to the applicable Industrial Welfare Commission Wage Order, employers must provide non-exempt employees a ten (10) minute duty-free rest period for every four (4) hours worked or major fraction thereof. Duty-free rest periods must be paid. An employer who fails to provide a duty-free rest period must pay the employee an additional one (1) hour of regular pay for each day in which a duty-free rest period is not provided. Cal. Lab. Code, § 226.7, subd. (c).

27. Throughout the 3-Year Statutory Period and at all other times relevant to this action, and until recently, Employer maintained an illegal practice of not providing Employees including Plaintiffs with timely and compliant first and second sanctioned rest periods. Employer required Employees to work from the start of each work day through lunch, and from lunch through the end of the work day, without any rest periods. Until recently, Employer provided only meal periods. Employer has failed to pay Employees an extra hour of pay for not providing their meal and rest breaks. Thus, Employees were not provided compliant first, second, and third rest periods as required by law throughout their Employment.

28. Throughout the 3-Year Statutory Period and at all other times relevant to this action, Employer failed to allow or encourage shaded recovery periods as required by law when temperatures exceeded eighty degrees and when temperatures were eighty degrees and lower.

1 Employer also failed to ensure effective employee observation/monitoring as required by law.
2 Employees including Plaintiffs regularly work outdoors performing plumbing, maintenance, and
3 other outdoor work where heat recovery periods are needed. Employer also failed to conduct
4 meetings on heat illness and failed to encourage or ensure Employees to take heat recovery
5 periods at the required intervals as required by law.

6 29. Employer also failed to provide Manuel Hernandez with any meal periods.

7 30. Plaintiffs are entitled to all premium wages, interest, and penalties as provided by
8 law.

9 **THIRD COUNT**

10 **Untimely Payment of Wages**

11 **(By Plaintiffs Armenta, Garcia, and Hernandez against All Defendants)**

12 31. Plaintiffs incorporate by reference and realleges each and every allegation
13 contained above, as though fully set forth herein.

14 32. "All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2,
15 earned by any person in any employment are due and payable twice during each calendar month,
16 on days designated in advance by the employer as the regular paydays. Labor performed between
17 the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the
18 26th day of the month during which the labor was performed, and labor performed between the
19 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th
20 day of the following month." Cal. Lab. Code, § 204, subd. (a).

21 33. Throughout the 1-Year Statutory Period, rather than timely paying Employees
22 including Plaintiffs all minimum/reporting time pay and premium wages due within the periods set
23 forth above, throughout Employees' employment, Employer failed to timely pay Employees for
24 all minimum wages, reporting time pay, and premium wages earned as required by law.

25 34. Regarding Manuel Hernandez, Employer also failed to designate in advance regular
26 paydays. Mr. Hernandez was required to approach Employer to inquire about payment if he did
27 not get paid when expected.

28 35. Plaintiffs are entitled to penalties as provided by law.

1 **FOURTH COUNT**

2 **Failure to Keep Accurate Records of Hours Worked**

3 **(By Plaintiffs Armenta, Garcia, and Hernandez against All Defendants)**

4 36. Plaintiffs incorporate by reference and realleges each and every allegation
5 contained above, as though fully set forth herein.

6 37. Pursuant to Labor Code section 1174, employers are mandated to “[k]eep, at a
7 central location in the state or at the plants or establishments at which employees are employed,
8 payroll records showing the hours worked daily by and the wages paid to, and the number of
9 piece-rate units earned by and any applicable piece rate paid to, employees employed at the
10 respective plants or establishments. These records shall be kept in accordance with rules
11 established for this purpose by the commission, but in any case shall be kept on file for not less
12 than three years.” Pursuant to Sections 1198 and the applicable IWC Wage Order, Employer was
13 also required to keep accurate records of Employees’ meal periods.

14 38. Throughout the 1-Year Statutory Period, Employer failed to keep accurate records
15 showing the hours worked daily by Employees. Employer required Employees to clock in and
16 clock out at the beginning and end of each workday, but the Employer failed to accurately record
17 Employees’ meal periods. Instead, Employer automatically deducted half an hour for Employees’
18 meal periods, without any effort to track when meal periods were starting and ending to ensure
19 that Employees were being provided the full 30-minute meal period and not being subjected to any
20 unlawful deduction from wages. On occasion within the past year, Employees have been
21 aggrieved by these violations because they were required to work through meal periods, and have
22 had their wages unlawfully deducted and not paid in violation of Labor Code sections 1197, 204,
23 and 221.

24 39. Employer is subject to additional civil penalties for its failure to keep accurate
25 records of Employees’ meal periods.

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1 **FIFTH COUNT**

2 **Failure to Issue and Keep Records of Wage Statements**

3 **(By Plaintiffs against All Defendants)**

4 40. Plaintiffs incorporate by reference and realleges each and every allegation
5 contained above, as though fully set forth herein.

6 41. "An employer, semimonthly or at the time of each payment of wages, shall furnish
7 to his or her employee, either as a detachable part of the check, draft, or voucher paying the
8 employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized
9 statement in writing showing (1) gross wages earned, (2) total hours worked by the employee,
10 except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable
11 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all
12 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
13 net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
14 name of the employee and only the last four digits of his or her social security number or an
15 employee identification number other than a social security number, (8) the name and address of
16 the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in
17 subdivision (b) of Section 1682, the name and address of the legal entity that secured the services
18 of the employer, and (9) all applicable hourly rates in effect during the pay period and the
19 corresponding number of hours worked at each hourly rate by the employee...." Cal. Lab. Code, §
20 226, subd. (a).

21 42. Throughout the 1-Year Statutory Period, Employer violated subdivisions (a), (b),
22 and (c) of Section 226 by failing to issue, maintain, or produce upon Employees' request either a
23 duplicate of the itemized statements provided to Employees or a computer-generated record that
24 accurately shows all of the required information.

25 43. Employer violated subdivisions (a), (b), and (c) of Section 226 by: (1) until
26 recently, knowingly and intentionally issuing wage statements that failed to indicate any address
27 of the legal entity that employed Employees; and (2) failing to maintain or produce upon
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1 Employees' request either a duplicate of the itemized statements provided to Employees or a
2 computer-generated record that accurately shows all of the required information.

3 44. Regarding Plaintiff Manuel Hernandez, Employer failed to provide any wage
4 statements.

5 45. The Employees including Plaintiffs were injured [Lab. Code § 226(e)(2)(B)(iii)],
6 and Employer owes the Employees statutory penalties, attorneys' fees, costs, and interest as
7 permitted by law.

8 **SIXTH COUNT**

9 **Failure to Pay Wages at Termination**

10 **(By All Plaintiffs against All Defendants)**

11 46. Plaintiffs incorporate by reference and realleges each and every allegation
12 contained above, as though fully set forth herein.

13 47. "If an employer discharges an employee, the wages earned and unpaid at the time
14 of discharge are due and payable immediately." Cal. Lab. Code, § 201, subd. (a). "If an employer
15 willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3,
16 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the
17 wages of the employee shall continue as a penalty from the due date thereof at the same rate until
18 paid or until an action therefor is commenced; but the wages shall not continue for more than 30
19 days. An employee who secretes or absents himself or herself to avoid payment to him or her, or
20 who refuses to receive the payment when fully tendered to him or her, including any penalty then
21 accrued under this section, is not entitled to any benefit under this section for the time during
22 which he or she so avoids payment." Cal. Lab. Code, § 203, subd. (a).

23 48. Throughout the 3-Year Statutory Period, Employer failed to pay Employees
24 including Plaintiffs minimum/reporting time pay and premium wages earned. These wages were
25 owed and due to Employees at the time of their discharge. Employer willfully did not provide full
26 payment of these wages to Employees at the time of discharge. Employer's failure to timely pay
27 these wages at the time of termination, and failure to pay Employees' continued wages for the 30-
28 day period thereafter, constitutes a violation of Sections 201 and 203.

49. The Employer owes the Employees including Plaintiffs statutory penalties, civil penalties, attorneys' fees, and costs.

SEVENTH COUNT

Fraud

(By All Plaintiffs against All Defendants)

50. Plaintiffs incorporate by reference and realleges each and every allegation contained above, as though fully set forth herein.

51. Pursuant to Labor Code section 970, “[n]o person, or agent or officer thereof, directly or indirectly, shall influence, persuade, or engage any person to change from one place to another in this State or from any place outside to any place within the State, or from any place within the State to any place outside, for the purpose of working in any branch of labor, through or by means of knowingly false representations, whether spoken, written, or advertised in printed form, concerning ... The length of time such work will last, or the compensation therefor....”

52. Throughout the 3-Year Statutory Period, Employer violated the foregoing statute by making false promises to Employees to induce them to work for Employer rather than other places of employment, including false representations that Employer would provide pay raises to Employees who continued working for Employer and false representations that Employer would provide Employees with 40 hours of work.

53. Employees including Plaintiffs are entitled to double damages, interest, and civil penalties as provided by law.

54. Stuart Carroll, among other officer(s), director(s), or managing agent(s) of the Employer, committed and/or authorized the fraud. Because the Employer is guilty of fraud, Plaintiffs are also entitled to punitive damages for the sake of making an example of Defendants and by way of punishing the Defendants.

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EIGHTH COUNT

Retaliation

(By All Plaintiffs against All Defendants)

55. Plaintiffs incorporate by reference and realleges each and every allegation contained above, as though fully set forth herein.

56. In violation of Labor Code §§ 98.6 and 1102.5, after Plaintiffs made a complaint to the Labor Commissioner and the Employer regarding alleged violations of their rights related to reporting time pay and rest breaks, and after Employees requested their personnel and payroll records as provided under Sections 1198.5 and 226, the Employer retaliated against Employees by reducing/eliminating their hours of work, reducing their rates of pay, and discontinuing maintenance work that Employer had previously offered in an effort to provide 40 hours a week of work to Employees, among other things. Employer has replaced and, in effect, terminated Plaintiffs' employment in retaliation for invoking their rights under the Labor Code.

57. In addition to suffering economic damages including past and future lost wages, Plaintiffs have experienced significant emotional distress, mental anguish, hardship, annoyance, and inconvenience as a result

58. Employer is liable for damages, civil penalties, attorneys' fees, and costs.

59. Stuart Carroll, among other officer(s), director(s), or managing agent(s) of the Employer, committed and/or authorized the foregoing acts, which were performed with malice and oppression against Plaintiffs, with a willful and conscious disregard of Plaintiffs' rights. Because the Employer is guilty of malice and oppression, Plaintiffs are also entitled to punitive damages for the sake of making an example of Defendants and by way of punishing the Defendants.

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1 **NINTH COUNT**

2 **Violation of Health-and-Safety Standards**

3 **(By Plaintiffs Armenta, Garcia, and Hernandez against All Defendants)**

4 60. Plaintiffs incorporate by reference and realleges each and every allegation
5 contained above, as though fully set forth herein.

6 61. "Every employer and every employee shall comply with occupational safety and
7 health standards, with Section 25910 of the Health and Safety Code, and with all rules,
8 regulations, and orders pursuant to this division which are applicable to his own actions and
9 conduct." Lab. Code 6407.

10 62. Throughout the 1-Year Statutory Period, Employer failed to provide access to
11 drinking water as required by Title 8, Section 3395 of the California Code of Regulations.
12 Employer also failed to encourage Employees to frequently drink water. Employer did the
13 opposite, and harassed Employees if they requested the use of a toilet during the workday, thereby
14 discouraging Employees from drinking sufficient water throughout the day.

15 63. Employer also failed to provide or encourage shade or recovery periods as required
16 by law when temperatures exceeded eighty degrees or when they were eighty degrees or lower,
17 and failed to implement any and all of the high-heat procedures, emergency response procedures,
18 acclimatization monitoring, and training required by § 3395. Employer also failed to establish,
19 implement, and maintain an effective heat illness prevention plan in accordance with law.

20 64. Employer also failed to conduct toolbox talks as required by regulation.
21 "Supervisory employees shall conduct 'toolbox' or 'tailgate' safety meetings, or equivalent, with
22 their crews at least every 10 working days to emphasize safety." Cal. Code Regs., tit. 8, § 1509,
23 subd. (e).

24 65. Throughout the 1-Year Statutory Period, Employers violated the foregoing
25 provisions by failing to conduct required safety meetings or an equivalent at any time, let alone
26 within the intervals required by law.

27 66. Employer also failed to provide adequate shoring and other support on trenches as
28 required by Cal. Code Regs., tit. 8, § 1541. For deeper trenches, ranging from approximately 5-7

1 feet, Employer previously installed shoring to support the trenches and avoid cave-ins and
2 collapses. However, to save time and money at the expense of Employees' safety, throughout the
3 1-Year Statutory Period, the Employer has violated the foregoing provisions by skipping these
4 safety precautions as required by law.

5 67. Employer also provided inadequate ladders. "Ladders shall be maintained in good
6 condition at all times, the joint between the steps and side rails shall be tight, all hardware and
7 fittings securely attached, and the movable parts shall operate freely without binding or undue
8 play. [¶] Damaged Ladders. Ladders that have developed defects shall be withdrawn from
9 service for repair or destruction; and tagged or marked as 'Dangerous, Do Not Use' or with similar
10 language. Ladders with broken or missing steps, rungs, cleats, safety feet, side rails, or other
11 defects shall not be used. [¶] Cleaning. Ladders shall be free of oil, grease, or slippery materials."
12 Cal. Code Regs., tit. 8, § 3276, subds. (e)(1)-(4).

13 68. Throughout the 1-Year Statutory Period, Employer violated the foregoing
14 provisions by requiring Employees to use poorly maintained ladders, with loose hardware, fittings,
15 and movable parts, and undue play in the joints. Ladders are also damaged, defective, and
16 affected by undue oil, grease, and slippery surfaces, but Employer nonetheless keeps them in
17 service to save money at the expense of Employees' safety.

18 69. Throughout the 1-Year Statutory Period, Employer also required the use of unsafe
19 jetter machines in violation of Cal. Code Regs., tit. 8, § 3328. Employer required Employees to
20 use jetter machines to perform their plumbing duties. The hoses and other components on the
21 machines are worn out and in need of repair or replacement, creating an undue fear and risk of
22 injury for Employees working at or near the machines.

23 70. Employer also violated §§ 2260 and 2350, and violated the applicable occupational
24 safety and health standards, which required Employer to provide toilet facilities to Employees.
25 Cal. Code Regs., tit. 8, §§ 1526 and 3364. Throughout the 1-Year Statutory Period, Employer
26 violated the foregoing by failing to provide toilets to Employees, and failing to provide reasonable
27 access to a sufficient number of toilet facilities for the use of Employees. Employer harassed
28 Employees if they requested the use of a toilet during the workday.

71. Throughout the 1-Year Statutory Period, Manuel Hernandez was also subjected to working conditions that exposed his hands to hazards such as those from cuts, lacerations, punctures, and skin absorption of harmful substances, pesticides, and chemicals. In violation of its legal duty under Cal. Code Regs., tit. 8, § 3384, Employer failed to select, provide, and require Mr. Hernandez to wear appropriate hand protection, such as gloves.

72. By committing the acts and omissions described in the preceding sections throughout Employees' employment, Employer also violated Labor Code, §§ 6400, 6401, 6302, 6403, 6404 by requiring and permitting unsafe work, and failing to provide safe workplaces, practices, and processes to its Employees.

73. Employer is subject to additional civil penalties as provided by law.

TENTH COUNT

Failure to Provide Water and Water Breaks

(By All Plaintiffs against All Defendants)

74. Plaintiffs incorporate by reference and realleges each and every allegation contained above, as though fully set forth herein.

75. “Every employer of labor in this state shall, without making a charge therefor, provide fresh and pure drinking water to his or her employees during working hours. Access to the drinking water shall be permitted at reasonable and convenient times and places.” Cal. Lab. Code, § 2441. Employees’ right to water and water breaks is separate and independent from their right to meal and rest breaks.

76. Employer violated the foregoing statute, and violated the applicable occupational safety and health standards (Cal. Code Regs., tit. 8, § 3363).

77. Throughout the 1-Year Statutory Period, Employer failed to provide Employees with any drinking water in violation of the foregoing. Employees were required to provide their own water and go the store to buy their own water, for which they were not reimbursed by Employer as required by Labor Code section 2802.

78. Employer is liable for damages and additional civil penalties for these violations.

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ELEVENTH COUNT

Sick Time Violations

(By All Plaintiffs against All Defendants)

79. Plaintiffs incorporate by reference and realleges each and every allegation contained above, as though fully set forth herein.

80. Throughout the 1-Year Statutory Period and at all other times relevant to this action, Employer violated Labor Code sections 246 and 246.5 by paying Employees' sick leave time at the lowest hourly rates, rather than at the higher rates required by the foregoing provisions.

81. Employer is subject to additional civil penalties as provided by law.

TWELFTH COUNT

Failure to Produce Employment Records Upon Request

(By All Plaintiffs against All Defendants)

82. Plaintiffs incorporate by reference and realleges each and every allegation contained above, as though fully set forth herein.

83. Employer violated §§ 226 and 1198.5 by failing to allow Employees access to all records which they are entitled to inspect. Employer failed to timely produce any records in response to Employees' requests made under the foregoing provisions.

84. Employer is subject to statutory penalties and additional civil penalties as provided by law.

THIRTEENTH COUNT

Unfair Competition

(By All Plaintiffs against All Defendants)

85. Plaintiffs incorporate by reference and realleges each and every allegation contained above, as though fully set forth herein.

86. The acts, omissions, and practices of Defendants as alleged herein constitute unlawful and unfair business acts and practices within the meaning of California Business & Professions Code section 17200, *et seq.*

87. Throughout the 4-Year Statutory Period, Defendants have engaged in unlawful and unfair business acts and practices, including failure to pay wages owed, failure to provide required meal, rest, and recovery periods without paying the required premiums, failed to reimburse Employees for water, and failure to pay sick-leave time at the appropriate rates, all in violation of the statutes and regulations referenced herein.

88. As a result of the conduct described above, Defendants have been, and will be, unjustly enriched at the expense of Plaintiffs by the retention of a significant sum of dollars in wages earned/expenses incurred and wrongfully withheld from Plaintiffs. Plaintiffs seek an order from this Court requiring Defendants to disgorge all ill-gotten gains and awarding Plaintiffs full restitution of all monies wrongfully acquired by Defendants, plus attorneys' fees pursuant to California Code of Civil Procedure section 1021.5.

PRAYER

WHEREFORE, Plaintiffs and Employees pray for judgment against Defendants, as follows:

1. For restitution and compensatory damages in an amount not less than \$1,000,000;
2. For punitive damages in an amount not less than \$1,000,000 pursuant to Civil Code § 3294;
3. For statutory penalties in an amount not less than \$500,000;
4. For civil penalties pursuant to Labor Code sections 2698, *et seq.* in an amount not less than \$500,000;
5. For reasonable costs and attorneys' fees; and
6. For such other and further relief as the Court deems proper.

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DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury on all causes of action.

DATED: July 17, 2020

WORKWORLD LAW CORP.

A Professional Corporation

By: 

RUBEN ESCOBEDO

Attorney for EPIFANIO ARMENTA,
ALEX GARCIA, JOSE ALBARRAN
HERNANDEZ, JOSUE GAMINO,
MANUEL HERNANDEZ, and DIEGO
RODRIGUEZ GARCIA, individually and
as Private Attorneys General