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Sherri R. Carter, Executive Officer/Clerk of Court

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

STERLING HUERTA GONZALEZ, an
individual, on behalf of himself and others
similarly situated,

Plaintiff,

vs.

CLEANSTREET, INC.; and DOES 1 to 50,
inclusive,

Defendants.

Case No.: 20STCV04305

FIRST AMENDED CLASS ACTION
COMPLAINT

1. Failure to Pay Wages and/or Overtime Under Labor Code §§ 510, 1194, 1197, and 1199
2. Failure to Provide Meal Periods Pursuant to Labor Code §§ 226.7 and 512
3. Failure to Provide Rest Periods Pursuant to Labor Code § 226.7
4. Violation of Labor Code § 226(a)
5. Failure to Reimburse Expenses Pursuant to Labor Code § 2802
6. Penalties Pursuant to Labor Code § 203
7. Violation of Business & Professions Code § 17200
8. Penalties Pursuant to Labor Code § 2699, *et seq.*

JURY TRIAL DEMANDED

Plaintiff STERLING HUERTA GONZALEZ, an individual, on behalf of himself, all others similarly situated, complains of Defendant CLEANSTREET, INC. ("Defendant") and each of them, as follows:

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I
INTRODUCTION

1. This is a Class Action, pursuant to Code of Civil Procedure § 382, on behalf of Plaintiff and a Proposed Class defined as:

All persons who are employed or have been employed as an hourly employee by CLEANSTREET, INC. in the State of California since four (4) years prior to the filing of this action to the present.

2. From at least four (4) years prior to the filing of this action continuing to the present, Defendant has had a consistent policy of failing to pay wages and/or overtime to all hourly employees for all work perform at the proper rate of compensation. Defendant has had a consistent policy of failing to pay proper wages and/or overtime to Plaintiff and the Proposed Class. Defendant failed to include the stipend pay in Plaintiff's and the Proposed Class Members' regular rate of pay in pay periods where they also worked overtime and/or double time. Defendant's policies and procedures resulted in the underpayment of wages and/or overtime.

3. For at least four (4) years prior to the filing of this action and continuing to the present, Defendant has had a consistent policy of failing to inform their employees of their right to take meal periods and requiring employees within the State of California, including Plaintiff, to work at least ten (10) hours without a second meal period and failing to pay such employees one (1) hour of pay at the employees regular rate of compensation for each workday that the second meal period is not provided or provided after ten (10) hours, as required by California state wage and hour laws.

4. For at least four (4) years prior to the filing of this action and continuing to the present, Defendant has had a consistent policy of failing to inform employees of their right to take rest periods and of failing to provide employees within the State of California, including Plaintiff, rest periods of at least ten (10) minutes per four (4) hours worked or major fraction thereof and failing to pay such employees one (1) hour of pay at the employees regular rate of compensation for each workday that the rest period was not provided, as required by California

1 state wage and hour laws.

2 5. For at least four (4) year prior to the filing of this action continuing to the
3 present, Defendant has failed to comply with Labor Code § 226(a) by failing to include
4 necessary and required information on wage statements provided to Plaintiff and the Proposed
5 Class. Defendant failed to include the total hours worked, all applicable hourly rates in effect
6 during the pay period, and the corresponding number of hours worked at each hourly rate by the
7 employee.

8 6. For at least four (4) years prior to the filing of this action and continuing to the
9 present, Defendant has not reimbursed Plaintiff and the Proposed Class the cost and
10 maintenance of their tools and related supplies necessary to perform their job duties during the
11 relevant time period in violation of Labor Code § 2802.

12 7. Based on the allegations alleged above, from at least four (4) years prior to the
13 filing of this action continuing to the present, Defendant has failed to pay all wages due at the
14 time of termination or resignation to Plaintiff and the Proposed Class.

15 8. Plaintiff, on behalf of himself and all Proposed Class Members brings this action
16 pursuant to Labor Code §§ 203, 226(a), 226.7, 510, 512, 1194, 1197, 1199, 2802; Wage Order
17 4-2001; and California Code of Regulations, Title 8, Section 11040, seeking unpaid wages
18 and/or overtime, meal break premiums, rest break premiums, penalties for accurate itemized
19 wage statements, reimbursement of expenses, wages upon termination or resignation, other
20 penalties, injunctive and other equitable relief, and reasonable attorneys' fees and costs.

21 9. Plaintiff, on behalf of himself and all Proposed Class Members, pursuant to
22 Business & Professions Code §§ 17200-17208, also seeks injunctive relief, restitution, and
23 disgorgement of all benefits Defendant enjoyed from its unlawful conduct as described herein.

24 10. Plaintiff, on behalf of himself and all members of the Proposed Class, brings this
25 representative action pursuant to Labor Code § 2699, et seq. seeking penalties for Defendant's
26 violation of California Labor Code §§ 203, 226(a), 226.7, 510, 512, 1194, 1197, 1199, and
27 2802.

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II

JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction over all causes of action asserted herein pursuant to Article VI, § 10 of the California Constitution and California Code of Civil Procedure § 410.10 by virtue of the fact that this is a civil action in which the matter in controversy, exclusive of interest, exceeds \$25,000, and because each cause of action asserted arises under the laws of the State of California or is subject to adjudication in the courts of the State of California.

12. This Court has personal jurisdiction over Defendant because Defendant has caused injuries in the County of Los Angeles and the State of California through their acts, and by their violation of the California Labor Code, California state common law, and California Business & Professions Code § 17200, *et seq.*

13. Venue as to each Defendant is proper in this judicial district, pursuant to Code of Civil Procedure § 395. Defendant operates within California and does business within Los Angeles County. The unlawful acts alleged herein have a direct effect on Plaintiff and all Proposed Class Members within the State of California and the County of Los Angeles.

14. This case should be classified as complex according to Rule 3.400 of the California Rules of Court, and assigned to a complex litigation judge and department, as it will involve substantial documentary evidence, a large number of witnesses, and is likely to involve extensive motion practice raising difficult or novel issues that will be time-consuming to resolve and would require substantial post judgment judicial supervision.

III

PARTIES

A. PLAINTIFF

15. Plaintiff STERLING HUERTA GONZALEZ is a resident of California.

16. Plaintiff and the Proposed Class Members were regularly required to:

- a. Work without being paid for all hours worked at the appropriate rate;
- b. Work without being provided their meal periods;

1 c. Work without being provided their rest periods;

2 d. Work without Defendant maintaining accurate time records showing
3 when the employee begins and ends each work period, meal periods, and total daily hours
4 worked and work without being provided an accurate itemized wage statement that reflects all
5 deductions from payment of wages and accurately report total hours worked, including when the
6 employee begins and ends each work period, meal periods, and total daily hours worked, and
7 the applicable rates of pay by Plaintiff and Proposed Class Members; and

8 e. Work without being reimbursed for expenses as a condition of
9 employment.

10 17. Defendant willfully failed to compensate Plaintiff and all Proposed Class
11 Members for wages at the termination of their employment with Defendant.

12 18. As a result of this conduct, Defendant has engaged in unfair competition and
13 unlawful business practices.

14 19. Plaintiff, on behalf of himself and all members of the Proposed Class, brings this
15 representative action pursuant to Labor Code § 2699, et seq. seeking penalties for Defendant's
16 violation of California Labor Code §§ 203, 226(a), 226.7, 510, 512, 1194, 1197, 1199, and
17 2802.

18 **B. DEFENDANTS**

19 20. Defendant CLEANSTREET, INC. is believed to be a California corporation
20 operating within the State of California. Defendant's corporate address is believed to be 1937
21 W 169th Street, Gardena, CA 90247. Upon information and belief, Defendant employed
22 Plaintiff and similarly situated persons as employees within California. Defendant has done and
23 does business throughout the State of California.

24 21. The true names and capacities, whether individual, corporate, associate, or
25 otherwise, of Defendants sued herein as DOES 1 to 50, inclusive, are currently unknown to
26 Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure
27 § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants
28 designated herein as a DOE is legally responsible in some manner for the unlawful acts referred

1 to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names
2 and capacities of the Defendants designated hereinafter as DOES when such identities become
3 known.

4 22. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
5 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a
6 joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each
7 Defendant are legally attributable to the other Defendants. Furthermore, Defendants in all
8 respects acted as the employer and/or joint employer of Plaintiff and the Proposed Class
9 Members.

10 IV

11 FACTUAL BACKGROUND

12 23. Plaintiff and the Proposed Class are, and at all times pertinent hereto, have been
13 classified as employees by Defendant.

14 24. Upon information and belief, Plaintiff and the Proposed Class are covered by
15 California Industrial Welfare Commission Occupational Wage Order No. 4-2001 (Title 8 Cal.
16 Code of Regs. § 11040).

17 25. On a regular and consistent basis, Plaintiff and the Proposed Class were not paid
18 at the proper rate of compensation. Defendant has had a consistent policy of failing to pay
19 proper wages and/or overtime to Plaintiff and the Proposed Class. Defendant failed to include
20 the stipend pay in Plaintiff's and the Proposed Class Members' regular rate of pay in pay
21 periods where they also worked overtime and/or double time. Defendant's policies and
22 procedures resulted in the underpayment of wages and/or overtime.

23 26. Plaintiff and the Proposed Class Members have been forced by Defendant to
24 work over ten (10) hours in one day without being provided a second thirty (30) minute
25 uninterrupted meal break period(s) and not being compensated one (1) hour of pay at the regular
26 rate of compensation for each workday that a second meal period was not provided or provided
27 after ten (10) hours, all in violation of California labor laws, regulations, and Industrial Welfare
28 Commission Wage Orders. Additionally, Defendant failed to inform Plaintiff and the Proposed

1 Class of their right to take meal periods by way of a lawful policy.

2 27. Plaintiff and the Proposed Class have been required to work four-hour
3 increments (or major fractions thereof) without being provided with a ten (10) minute rest
4 period. Additionally, Defendant failed to inform Plaintiff and the Proposed Class of their right
5 to take rest periods by way of a lawful policy.

6 28. Defendant has failed to provide accurate itemized wage statements in compliance
7 with Labor Code § 226(a) by failing to maintain time records showing when the employee
8 begins and ends each work period, meal periods, total daily hours worked by itemizing in wage
9 statements all deductions from payment of wages, accurately reporting total hours and
10 applicable rates of pay for Plaintiff and Proposed Class Members.

11 29. On a regular and consistent basis, Plaintiff and the Proposed Class have not been
12 properly reimbursed expenses associated with the cost and maintenance of their tools and
13 related supplies necessary to perform their job duties as a condition of employment.

14 30. Defendant willfully failed to pay wages and compensation, when Plaintiff and all
15 Proposed Class Members quit or were discharged. Defendant failed to pay the wages described
16 above at the time of termination or resignation. This failure was willful, without legal
17 justification, and interfered with Plaintiff's and the Proposed Class Members' rights.

18 31. As a result of the facts alleged above, Defendant has engaged in unfair
19 competition and unlawful business practices.

20 32. As a result of the acts alleged herein, Defendant violated Labor Code § 2699, *et*
21 *seq.*

22 V

23 **CLASS ACTION ALLEGATIONS**

24 33. Plaintiff brings this action on behalf of himself and all others similarly situated as
25 a Class Action pursuant to § 382 of the Code of Civil Procedure. Plaintiff seeks to represent
26 proposed class composed of and defined as follows:

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1 All persons who are employed or have been employed as a non-
2 exempt employee by CLEANSTREET, INC. in the State of
3 California since four (4) years prior to the filing of this action to
the present.

4 34. Plaintiff reserves the right under Rule 3.765(b) of the California Rules of Court
5 to amend or modify the class description with greater specificity, by division into subclasses, or
6 by limitation to particular issues.

7 35. This action has been brought and may properly be maintained as a class action
8 under the provisions of § 382 of the Code of Civil Procedure because there is a well-defined
9 community of interest in the litigation and the Proposed Class is easily ascertainable.

10 **A. Numerosity**

11 36. The potential members of the Proposed Class as defined are so numerous that
12 joinder of all the members of the Proposed Class is impracticable. While the precise number of
13 Proposed Class Members has not been determined at this time, Plaintiff is informed and believes
14 that Defendant currently employ, and during the relevant time periods employed 50 to 99
15 members of the Proposed Class at any given time.

16 37. Plaintiff alleges that Defendant's employment records would provide information
17 as to the number and location of all Proposed Class Members. Joinder of all members of the
18 Proposed Class is not practicable.

19 **B. Commonality**

20 38. There are questions of law and fact common to the Proposed Class that
21 predominate over any questions affecting only individual Proposed Class Members. These
22 common questions of law and fact include, without limitation:

23 a. Whether Defendant failed to pay wages and/or overtime to Plaintiff and
24 the Proposed Class as required by the Labor Code and Wage Orders under Labor Code §§ 510,
25 1194, 1197, and 1199;

26 b. Whether Defendant failed to provide all lawful meal periods or pay one
27 hour of wages in lieu thereof statements to Plaintiff and Proposed Class Members;

28 c. Whether Defendant failed to provide all lawful rest periods or pay one

1 hour of wages in lieu thereof statements to Plaintiff and Proposed Class Members;

2 d. Whether Defendant violated Labor Code § 226(a) and Wage Order 4-
3 2001 or other applicable IWC Wage Orders, and Cal. Code Regs., Title 8, Section 11040 by
4 failing to issue accurate and complete itemized wage statements;

5 e. Whether Defendant violated Labor Code § 2802 and/or Wage Order 4-
6 2001 or other applicable IWC Wage Orders by failing to reimburse out of pocket expenses for
7 the cost and maintenance of their tools and related supplies necessary to perform their job
8 duties;

9 f. Whether Defendant violated §§ 201-203 of the Labor Code by failing to
10 pay compensation due and owing at the time that any Proposed Class Member's employment
11 with Defendant terminated;

12 g. Whether Defendant violated § 17200, *et seq.* of the Business &
13 Professions Code by engaging in the acts previously alleged;

14 h. Whether Plaintiff and the members of the Proposed Class are entitled to
15 equitable relief pursuant to Business & Professions Code § 17200, *et seq.*; and

16 i. Whether Defendant violated Labor Code § 2699, *et seq.* by engaging in
17 the acts alleged herein.

18 **C. Typicality**

19 39. The claims of Plaintiff are typical of the claims of the Proposed Class. Plaintiff
20 and all members of the Proposed Class sustained injuries and damages arising out of and caused
21 by Defendant's common course of conduct in violation of laws, regulations that have the force
22 and effect of law, and statutes as alleged herein.

23 **D. Adequacy of Representation**

24 40. Plaintiff will fairly and adequately represent and protect the interests of the
25 members of the Proposed Class. Counsel who represent Plaintiff and the Proposed Class are
26 competent and experienced in litigating large employment class actions.

27 **E. Superiority of Class Action**

28 41. A class action is superior to other available means for the fair and efficient

1 adjudication of this controversy. Individual joinder of all Proposed Class Members is not
2 practicable, and questions of law and fact common to the Proposed Class predominate over any
3 questions affecting only individual members of the Proposed Class. Each member of the
4 Proposed Class has been damaged and is entitled to recovery by reason of Defendant's illegal
5 policy and/or practice of failing to pay wages for all hours worked at the proper rate, failing to
6 provide meal periods, failing to provide rest periods, failing to provide accurate itemized wage
7 statements, failing to provide reimbursement of expenses, and failing to pay all wages upon
8 resignation or termination.

9 42. Class action treatment will allow those similarly situated persons to litigate their
10 claims in the manner that is most efficient and economical for the parties and the judicial
11 system. Plaintiff is unaware of any difficulties that are likely to be encountered in the
12 management of this action that would preclude its maintenance as a class action.

13 VI

14 FIRST CAUSE OF ACTION

15 FAILURE TO PAY WAGES/OVERTIME

16 VIOLATION OF LABOR CODE §§ 510, 1194, AND 1199

17 43. Plaintiff incorporates each and every allegation set forth in all of the foregoing
18 paragraphs as if fully set forth herein.

19 44. Labor Code § 510(a) states that eight hours of labor constitutes a day's work and
20 any work in excess of eight hours in one workday and any work in excess of 40 hours in any
21 one workweek must be compensated at the rate of no less than one and one-half times the
22 regular rate of pay for an employee. Labor Code §§ 1194, 1197, and 1199 require an employer
23 to pay its employees the legal minimum wage and the legal overtime compensation applicable.
24 California law also requires that any compensation, including a health and welfare fringe
25 benefits, must be included in the regular rate of pay.

26 45. Defendant has had a consistent policy of failing to pay wages and/or overtime to
27 Plaintiff and the Proposed Class when they worked overtime. Defendant has had a consistent
28 policy of failing to pay proper wages and/or overtime to Plaintiff and the Proposed Class.

1 Defendant failed to include the stipend pay in Plaintiff's and the Proposed Class Members'
2 regular rate of pay in pay periods where they also worked overtime and/or double time.
3 Defendant's policies and procedures resulted in the underpayment of wages and/or overtime.

4 46. Plaintiff and the Proposed Class were forced to work on a regular and consistent
5 basis without receiving compensation for all hours worked at the proper rate. Specifically,
6 Plaintiff and the Proposed Class were not paid at the proper overtime rate when they were
7 working more than eight (8) hours in one day or forty (40) hours in one week.

8 47. By their policy of requiring Plaintiff and the Proposed Class to work in excess of
9 eight (8) hours in a workday and/or forty (40) hours in a workweek without compensating them
10 at the rate of one-half (1 1/2) their regular rate of pay, Defendant willfully violated the
11 provisions of Labor Code §§ 510, 1194, 1197, and 1199.

12 48. As a result of the unlawful acts of Defendant, Plaintiff and the Proposed Class
13 have been deprived of wages and overtime in amounts to be determined at trial, and are entitled
14 to recovery of such amounts, plus interest and penalties thereon, attorney's fees, and costs.

15 **VII**

16 **SECOND CAUSE OF ACTION**

17 **FAILURE TO PROVIDE MEAL PERIODS PURSUANT TO LABOR CODE § 226.7**

18 **AND LABOR CODE § 512**

19 49. Plaintiff incorporates each and every allegation set forth in all of the foregoing
20 paragraphs as if fully set forth herein.

21 50. Labor Code §§ 226.7 and 512 require an employer to pay an additional hour of
22 compensation for each meal period the employer fails to provide. Employees are entitled to a
23 first meal period of at least thirty (30) minutes for shifts over five (5) hours, to be provided
24 within the first five (5) hours of the shift, and a second meal period of at least thirty (30)
25 minutes for shifts over ten (10) hours. If an employee is entitled to a second meal period, it
26 must be provided after no more than ten (10) hours of work. Defendant failed to maintain a
27 policy informing Plaintiff and the Proposed Class of these rights.

28 51. Plaintiff and the Proposed Class consistently worked shifts over ten (10) hours.

52. Defendant failed to provide Plaintiff and the Proposed Class with proper meal periods of not less than thirty (30) minutes as required by the Labor Code during the relevant time period. When Defendant provided these meal periods, they were often less than thirty (30) minutes in length.

53. Pursuant to Labor Code § 226.7, Plaintiff and the Proposed Class are entitled to damages in an amount equal to one (1) hour of wages per missed meal break, per day in a sum to be proven at trial.

VIII

THIRD CAUSE OF ACTION

FAILURE TO ALLOW REST PERIODS PURSUANT TO LABOR CODE § 226.7

54. Plaintiff incorporates each and every allegation set forth in all of the foregoing paragraphs as if fully set forth herein.

55. Labor Code § 226.7 require an employer to pay an additional hour (1) of compensation for each rest period the employer fails to provide. Employees are entitled to a paid ten (10) minute rest break for every four (4) hours worked (or major fraction thereof). Defendant failed to maintain a policy informing Plaintiff and the Proposed Class of this right.

56. Plaintiff and the Proposed Class consistently worked shifts with no rest breaks or with only some of their required rest breaks, and Defendant failed to maintain an accurate policy advising Plaintiff and the Proposed Class of these rest breaks and failed to provide Plaintiff and the Proposed Class with rest breaks of not less than ten (10) minutes as required by the Labor Code during the relevant time period.

57. Pursuant to Labor Code § 226.7, Plaintiff and the Proposed Class are entitled to damages in an amount equal to one (1) hour of wages per missed rest period, in a sum to be proven at trial.

IX

FOURTH CAUSE OF ACTION

VIOLATION OF LABOR CODE § 226(a)

58. Plaintiff incorporates each and every allegation set forth in all of the foregoing

1 paragraphs as if fully set forth herein.

2 59. California Labor Code § 226(a) requires employers to itemize in wage statements
3 all deductions from payment of wages, the appropriate rates of pay, and to accurately report
4 total hours worked by Plaintiff and the Proposed Class.

5 60. Labor Code § 226(a)(2) requires that the itemized wage statement properly state
6 the total hours worked by the employee. Plaintiff and the Proposed Class are issued wage
7 statements that do not state the total hours worked during the pay period.

8 61. Labor Code § 226(a)(9) requires that every employer shall semimonthly or at the
9 time of each payment of wages, furnish each of his or her employees, an accurate itemized
10 statement in writing showing all applicable hourly rates in effect during the pay period and the
11 corresponding number of hours worked at each hourly rate by the employee. Plaintiff and the
12 Proposed Class are issued wage statements that do not include all applicable hourly rates in
13 effect during the pay period and the corresponding number of hours worked at each hourly rate
14 by the employee.

15 62. Defendant's failure to provide accurate itemized wages statements according to
16 Labor Code § 226(a) was all done on a regular and consistent basis.

17 63. An employee suffering injury as a result of a knowing and intentional failure by
18 an employer to comply with Labor Code § 226(a) is entitled to recover the greater of all actual
19 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one
20 hundred dollars (\$100) per employee for each violation in a subsequent pay period, not
21 exceeding an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of
22 costs and reasonable attorney's fees.

23 X

24 **FIFTH CAUSE OF ACTION**

25 **FAILURE TO REIMBURSE EXPENSES PURSUANT TO LABOR CODE § 2802**

26 64. Plaintiff incorporates each and every allegation set forth in all of the foregoing
27 paragraphs as if fully set forth herein.

28 65. Labor Code § 2802 requires employers to indemnify employees for all necessary

1 expenditures incurred by employees in the discharge of their duties.

2 66. Defendant has failed to reimburse Plaintiff and the Proposed Class the cost and
3 maintenance of their tools and related supplies necessary to perform their job duties during the
4 relevant time period.

5 67. As a result of the unlawful acts of Defendant, Plaintiff and the Proposed Class
6 have been deprived of reimbursement in the amounts to be determined at trial, and are entitled
7 to recovery of such amounts, plus interest and penalties thereon, attorney's fees, and costs.

8 **XI**

9 **SIXTH CAUSE OF ACTION**

10 **WAITING TIME PENALTIES UNDER LABOR CODE § 203**

11 68. Plaintiff incorporates each and every allegation set forth in all of the foregoing
12 paragraphs as if fully set forth herein.

13 69. Numerous members of the Proposed Class including the Plaintiff are no longer
14 employed by Defendant. They were either fired or quit Defendant's employ.

15 70. Defendant's failure to pay wages, as alleged above was willful in that Defendant
16 knew wages to be due but failed to pay them, thus entitling Plaintiff and the Proposed Class to
17 penalties under Labor Code § 203, which provides that an employee's wages shall continue as a
18 penalty until paid for a period of up to thirty (30) days from the time they were due.

19 71. Defendant has failed to pay Plaintiff and others a sum certain at the time of
20 termination or within seventy-two (72) hours of their resignation and have failed to pay those
21 sums for thirty (30) days thereafter. Pursuant to the provisions of Labor Code § 203, Plaintiff
22 and the Proposed Class are entitled to a penalty in the amount of Plaintiff's and the Proposed
23 Class Members' daily wage multiplied by thirty (30) days.

24 **XII**

25 **SEVENTH CAUSE OF ACTION**

26 **UNFAIR COMPETITION PURSUANT TO**

27 **BUSINESS & PROFESSIONS CODE § 17200**

28 72. Plaintiff incorporates each and every allegation set forth in all of the foregoing

1 paragraphs as if fully set forth herein.

2 73. This is a Class Action for Unfair Business Practices. Plaintiff, on behalf of
3 himself, on behalf of the general public, and on behalf of the Proposed Class, brings this claim
4 pursuant to Business & Professions Code § 17200, *et seq.* The conduct of Defendant as alleged
5 in this Complaint has been and continues to be unfair, unlawful, and harmful to Plaintiff, the
6 general public, and the Proposed Class. Plaintiff seeks to enforce important rights affecting the
7 public interest within the meaning of Code of Civil Procedure § 1021.5.

8 74. Plaintiff is a “person” within the meaning of Business & Professions Code
9 § 17204, and therefore has standing to bring this cause of action for injunctive relief, restitution,
10 and other appropriate equitable relief.

11 75. Business & Profession Code § 17200, *et seq.* prohibits unlawful and unfair
12 business practices.

13 76. California’s wage and hour laws express fundamental public policies. Providing
14 employees with proper wages and compensation are fundamental public policies of this State
15 and of the United States. Labor Code § 90.5(a) articulates the public policies of this State to
16 enforce vigorously minimum labor standards, to ensure that employees are not required or
17 permitted to work under substandard and unlawful conditions, and to protect law-abiding
18 employers and their employees from competitors who lower their costs by failing to comply
19 with minimum labor standards.

20 77. Defendant has violated statutes and public policies as alleged herein. Through
21 the conduct alleged in this Complaint, Defendant has acted contrary to these public policies,
22 have violated specific provisions of the Labor Code, and have engaged in other unlawful and
23 unfair business practices in violation of Business & Profession Code § 17200, *et seq.*, depriving
24 Plaintiff, and all persons similarly situated, and all interested persons of rights, benefits, and
25 privileges guaranteed to all employees under law.

26 78. Defendant’s conduct, as alleged hereinabove, constitutes unfair competition in
27 violation of § 17200, *et seq.* of the Business & Professions Code.

28 79. Defendant, by engaging in the conduct herein alleged, either knew or in the

1 exercise of reasonable care, should have known that the conduct was unlawful. As such it is a
2 violation of § 17200, *et seq.* of the Business & Professions Code.

3 80. As a proximate result of the above-mentioned acts of Defendant, Plaintiff and
4 others similarly situated have been damaged in a sum as may be proven.

5 81. Unless restrained, Defendant will continue to engage in the unlawful conduct as
6 alleged above. Pursuant to the Business & Professions Code, this court should make such
7 orders or judgments, including the appointment of a receiver, as may be necessary to prevent the
8 use or employment by Defendant, its agents, or employees, of any unlawful or deceptive
9 practices prohibited by the Business & Professions Code, and/or, including but not limited to,
10 restitution and disgorgement of profits which may be necessary to restore Plaintiff and the
11 Proposed Class the money Defendant has unlawfully failed to pay.

12 **XIII**

13 **EIGHTH CAUSE OF ACTION**

14 **PENALTIES PURSUANT TO LABOR CODE § 2699, ET SEQ.**

15 82. Plaintiff incorporates each and every allegation set forth in all of the foregoing
16 paragraphs as if fully set forth herein.

17 83. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code
18 § 2699, *et seq.* because of Defendant's violation of Labor Code §§ 203, 226(a), 226.7, 510, 512,
19 1194, 1197, 1199, and 2802, which call for civil penalties.

20 84. For each such violation, Plaintiff and all other aggrieved employees are entitled
21 to penalties in an amount to be shown at the time of trial subject to the following formula:

- 22 a. \$100 for the initial violation per employee per pay period; and
23 b. \$200 for each subsequent violation per employee per pay period.

24 85. These penalties will be allocated 75% to the Labor Workforce Development
25 Agency and 25% to the affected employees.

26 86. On February 3 2020, in compliance with Labor Code § 2699.3(a)(1), Plaintiff
27 gave written notice by online filing to the LWDA, setting forth the facts and theories of the
28 violations alleged against Defendant ("Notice Letter", see Exhibit "1") and paid the filing fee.

1 Plaintiff also mailed notice to Defendant by certified mail, return receipt requested, to the
2 address listed on the California Secretary of State's website as the entity address for
3 CLEANSTREET, INC., which is 1937 W 169th Street, Gardena, CA 90247. (See Exhibit "2").

4 87. Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff
5 from the LWDA evidencing its intention to investigate within sixty-five (65) calendar days of
6 February 3, 2020. Therefore, Plaintiff is entitled to commence a civil action as though the
7 LWDA has chosen not to investigate. Plaintiff will also provide the LWDA with a filed-
8 stamped copy of the First Amended Complaint immediately.

9 **RELIEF REQUESTED**

10 **WHEREFORE**, Plaintiff prays for the following relief:

11 1. For compensatory damages in the amount of unpaid wages and/or overtime not
12 paid to Plaintiff and each Proposed Class Member from at least four (4) years prior to the filing
13 of this action to the present as may be proven;

14 2. For compensatory damages in the amount of Plaintiff's and each Proposed Class
15 Members' hourly wage for each meal period missed or taken late from at least four (4) years
16 prior to the filing of this action to the present as may be proven;

17 3. For compensatory damages in the amount of Plaintiff's and each Proposed Class
18 Members' hourly wage for each rest period missed or taken late from at least four (4) years prior
19 to the filing of this action to the present as may be proven;

20 4. For penalties pursuant to Labor Code § 226(e) for violation of Labor Code
21 § 226(a) in the amount of fifty dollars (\$50) for the initial pay period in which a violation occurs
22 and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not
23 exceeding an aggregate penalty of four thousand dollars (\$4,000);

24 5. For compensatory damages in the amount of Plaintiff's and each Proposed Class
25 Members' out of pocket expenses as a requirement of employment;

26 6. For penalties pursuant to Labor Code § 203 for all employees who were
27 terminated or resigned equal to their daily wage times thirty (30) days;

28 7. An award of prejudgment and post judgment interest;

1 8. An order enjoining Defendant and its agents, servants, and employees, and all
2 persons acting under, in concert with, or for it from providing Plaintiff and the Proposed Class
3 with proper wages and/or overtime at the proper rate, meal periods, rest periods, accurate
4 itemized wage statements, reimbursement of expenses, and wages upon termination/resignation
5 pursuant to Labor Code §§ 203, 226(a), 226.7, 510, 512, 1194, 1197, 1199, 2802, and IWC 4-
6 2001;

7 9. For restitution for unfair competition pursuant to Business & Professions Code
8 § 17200, *et seq.*, including disgorgement or profits, in an amount as may be proven;

9 10. For penalties and other relief pursuant to Labor Code § 2699, *et seq.*;

10 11. An award providing for payment of costs of suit;

11 12. An award of attorney's fees; and

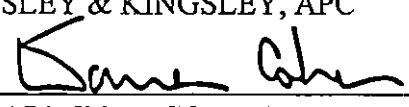
12 13. Such other and further relief as this Court may deem proper and just.

13 **DEMAND FOR JURY TRIAL**

14 Plaintiff hereby demands a trial of his claims by jury to the extent authorized by law.

15
16 DATED: August 11, 2020

KINGSLEY & KINGSLEY, APC

17 By: 

18 DARREN M. COHEN

19 *Attorneys for Plaintiff and the Proposed Class*
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EXHIBIT 1

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY
To: Service Email
Subject: Thank you for submission of your PAGA Case.
Date: Monday, February 3, 2020 11:31:21 AM

2/3/2020

LWDA Case No. LWDA-CM-770254-20
Law Firm : Kingsley & Kingsley
Plaintiff Name : Sterling Huerta Gonzalez
Employer: Cleanstreet, Inc.

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT 2

KINGSLEY & KINGSLEY

I L A W Y E R S I

February 3, 2020

PAGAfilings@dir.ca.gov
<https://dir.tfaforms.net/260>

LABOR & WORKFORCE DEVELOPMENT AGENCY
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

CLEANSTREET, INC.
1937 W 169th Street
Gardena, CA 90247
Certified Mailing: # 7018 1130 0001 5815 1321

Re: STERLING HUERTA GONZALEZ V. CLEANSTREET, INC.
California Labor Code § 2699 Penalties

Gentlepersons:

This office represents Sterling Huerta Gonzalez ("Plaintiff") for the violations of California Labor Code §§ 203, 226(a), 226.7, 510, 512, 1194, 1197, 1199, and 2802. The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698, *et seq.* We herein set forth the facts and theories of California Labor Code violations, which we allege Cleanstreet, Inc. ("Defendant") engaged in with respect to our client and all of their California employees.

Specifically, Defendant has violated Labor Code §§ 510, 1194, 1197, and 1199. These statutes require an employer to compensate its employees at the minimum wage rate for all hours worked and at a rate of no less than one and one-half times the regular rate of pay for any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek. On a regular and consistent basis, Defendant has had a consistent policy of failing to pay wages and/or overtime to Plaintiff and the aggrieved employees for all hours worked. Defendant issued Stipend pay to Plaintiff and the aggrieved employees. However, Defendant failed to include any such Stipend pay in Plaintiff's and the aggrieved employees' regular rate of pay in pay periods where they also worked overtime and/or double time. As such, Plaintiff and the aggrieved employees were paid at a regular rate less than the rate required under California law.

In addition, Labor Code § 512 states that an employer may not employ an employee for a work period of more than five (5) hours per day without providing the employee with a meal period of not

less than thirty (30) minutes. Additionally, an employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than thirty (30) minutes. Pursuant to Labor Code § 226.7(c), if an employer fails to provide an employee with a lawful meal period, the employer must pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that a thirty-minute uninterrupted meal period was not provided, was not provided in full, or was not provided in a timely manner.

Defendant failed to apprise Plaintiff and the aggrieved employees of their rights associated with meal periods and failed to provide compliant meal periods. Defendant required Plaintiff and the aggrieved employees to work shifts without providing them with meal periods. When employees were required to work through meal periods, Defendant failed to pay such employees one hour of pay at their regular rate of compensation.

Further, pursuant to Labor Code § 226.7 and Wage Order 4-2001, Defendant failed to provide Plaintiff and the aggrieved employees with rest breaks of not less than ten (10) minutes per four (4) hour work period, or major fraction thereof. Defendant failed to provide Plaintiff and the aggrieved employees with these rest periods and failed to inform them of their right to rest periods. Further, Plaintiff and the aggrieved employees were not compensated with one (1) hour of wages for each missed rest period as required by Labor Code § 226.7.

Defendant engaged in a practice of failing to provide accurate itemized wage statements in violation of Labor Code § 226(a), which requires that every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, an accurate itemized statement in writing showing all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Specifically, Labor Code § 226(a)(2) requires that the itemized wage statement properly state the total hours worked by the employee. Plaintiff and the aggrieved employees are issued wage statements that do not state the total hours worked during the pay period. Labor Code § 226(a)(9) requires that the itemized wage statement properly state all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Plaintiff and the aggrieved employees are issued wage statements that do not include the applicable regular rate, overtime rate, and double time rates. In addition, Plaintiff and the aggrieved employees are issued wage statements that do not include the correct number of hours worked at each applicable hourly rate and do not include meal/rest period premiums. Thus, Plaintiff is aggrieved employees within the meaning PAGA and Defendant has violated Labor Code § 226(a) with respect to Plaintiff and the aggrieved employees.

In addition, Labor Code § 2802 and Wage Order 4-2001 require employers to indemnify employees for all necessary expenditures incurred by employees in the discharge of their duties. Defendant has failed to properly reimburse Plaintiff and aggrieved employees the cost of using and maintaining their tools and other related supplies. Defendant required Plaintiff and the aggrieved employees to have

LABOR & WORKFORCE DEVELOPMENT AGENCY
CLEANSTREET, INC.
California Labor Code § 2699 Penalties
February 3, 2020
Page 3 of 3

and maintain their tools and other related supplies as a condition of employment. These expenses were incurred as a necessary part of the performance of Plaintiff's and the aggrieved employees' job duties. As such, Defendant violated Labor Code § 2802.

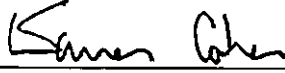
Lastly, Defendant failed to pay Plaintiff and the aggrieved employees all wages at the time of termination or within seventy-two (72) hours of their resignation and have failed to pay those sums for thirty (30) days thereafter.

Defendant's failure to provide wages and/or overtime for all hours worked and at the proper rate, failure to provide meal and rest periods, failure to provide compliant itemized wage statements, failure to reimburse expenses, and failure to pay all wages upon termination/resignation were all done on a regular and consistent basis.

We are constrained to move forward with the filing of this complaint alleging causes of action pursuant to Labor Code §§ 203, 226(a), 226.7, 510, 512, 1194, 1197, 1199, and 2802, with or without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

Very truly yours,

KINGSLEY & KINGSLEY, APC

By: 

DARREN M. COHEN

DMC/dm

LWDA Filed Electronic Submission via <https://dir.tfaforms.net/260>
VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED
CLEANSTREET, INC. # 7018 1130 0001 5815 1321

(PROOF OF SERVICE)

[CCP 1013(a)(3)]

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On August 14, 2020, I served all interested parties in this action the following documents described as: **FIRST AMENDED CLASS ACTION COMPLAINT** by placing [] (the original) [X] (a true copy thereof) in a sealed envelope addressed as stated on the attached service list:

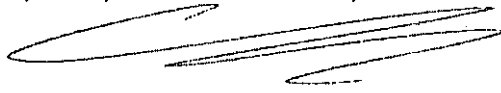
Robert D. Vogel
Carmen M. Miranda
JACKSON LEWIS P.C.
725 South Figueroa Street, Suite 2500
Los Angeles, CA 90071
Robert.Vogel@jacksonlewis.com
Carmen.Miranda@jacksonlewis.com

☐ (BY MAIL) I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage fully prepaid at Encino, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ BY ELECTRONIC MAIL TRANSMISSION: I caused the document to be send to the persons at the e-mail address(es) listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A pdf copy of which was sent via email to the above email address(es).

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

Executed on August 14, 2020, at Woodland Hills, California.



Michelle Tanzer