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XOCHILT CARRILLO
ISMAEL CARRILLO,
ELIA RODRIGUEZ ARELLANO,
PEDRO SOSA, ANA LAURA CUEVAS, and
GABRIEL ZAMORA
individually and on behalf of
all others similarly-situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, UNLIMITED JURISDICTION**

XOCHILT CARRILLO, an individual; and
ISMAEL CARRILLO, an individual; ELIA
RODRIGUEZ ARELLANO, an individual;
PEDRO SOSA, an individual; ANA
LAURA CUEVAS, and GABRIEL
ZAMORA, individually and on behalf of
all others similarly situated,

Plaintiffs,

vs.

GENESSY MANAGEMENT AND
DEVELOPMENT LLC, a limited liability
corporation; J O ARMOR
INVESTMENTS, a sole proprietor; and
DOES 1 through 50, inclusive,

Defendants.

CASE NO. 18STCV01362

Assigned for all purposes to:
Hon. Carolyn Kuhl, Dept. 12 (SSC)

CLASS ACTION

FOURTH AMENDED COMPLAINT FOR:

- 1. FAILURE TO PAY MINIMUM WAGE;**
- 2. WAITING TIME PENALTIES;**
- 3. FAILURE TO PROVIDE ACCURATE
ITEMIZED WAGE STATEMENTS;**
- 4. VIOLATION OF CAL. BUSINESS AND
PROFESSIONS CODE § 17200, ET
SEQ.;**
- 5. FAILURE TO REIMBURSE BUSINESS
EXPENSES;**
- 6. PENALTIES UNDER LABOR CODE
§§2698, ET SEQ. [PAGA]; AND**

DEMAND FOR JURY TRIAL

1 **INTRODUCTION**

2 1. Plaintiffs XOCHILT CARRILLO, ISMAEL CARRILLO, PEDRO SOSA, ELIA
3 RODRIGUEZ ARELLANO, ANA LAURA CUEVAS, and GABRIEL ZAMORA (collectively,
4 “Plaintiffs”) file this Complaint for Damages and Injunctive Relief against Defendant GENESSY
5 MANAGEMENT AND DEVELOPMENT LLC (“hereinafter “Genessy”) and/or Defendant J O
6 ARMOR INVESTMENTS (hereinafter “Armor Investments”), and DOES 1 through 50 inclusive
7 (collectively, “Defendants”) for violations of the California Labor Code and the California Unfair
8 Competition Law (hereinafter “UCL”).
9

10 **PARTIES AND JURISDICTION**

11 2. Plaintiffs Xochilt Carrillo, Ismael Carrillo, Elia Rodriguez Arellano, and Pedro
12 Sosa are former non-exempt employees of Defendants Genessy and/or Armor Investments and
13 are residents of Los Angeles County, in the State of California.

14 3. Plaintiffs Gabriel Zamora and Ana Laura Cuevas are current non-exempt
15 employees of Defendants Genessy and/or Armor Investments and are residents of Los Angeles
16 County, in the State of California.

17 4. Plaintiffs are informed and believe, and thereon allege, that at all times material to
18 this Complaint, Defendant Genessy was and is a California corporation doing business in Los
19 Angeles County, in the State of California.

20 5. Plaintiffs are informed and believe, and thereon allege, that at all times material to
21 this Complaint, Defendant Armor Investments was and is a California entity, form unknown,
22 doing business in Los Angeles County, in the State of California.

23 6. Plaintiffs are informed and believe, and thereon allege, that at all times material to
24 this Complaint, Defendant Armor Investments was and is a majority-owned subsidiary, operating
25 unit, agent, or affiliate of Defendant Genessy.

26 7. Plaintiffs are informed and believe, and thereon alleges, that Defendant Genessy
27 exercised extensive control over Defendant Armor Investments, and direct control over the
28 employment of Plaintiffs in Los Angeles, California, including their retention and termination.

1 8. Plaintiffs are informed and believe, and thereon allege, that the operations of
2 Defendants Genessy and Armor Investments are integrally related, from human resources
3 policies, resources and management, to their business enterprises. Defendant Genessy and its
4 subsidiaries and affiliates substantially made the final decision regarding employment matters
5 related to Plaintiffs, exercising control to a degree that exceeds the control normally exercised by
6 a parent corporation.

7 9. Plaintiffs are informed and believe, and thereon allege, that Defendants Genessy
8 and Armor Investments have common control of labor relations and personnel, common
9 management, a clear interrelation of operations, and/or common ownership and/or financial
10 control, functioning as an integrated enterprise.

11 10. Defendants sued herein as DOES 1 through 50 are sued under said fictitious names
12 pursuant to California Code of Civil Procedure section 474. Plaintiffs are informed and believe,
13 and thereon allege, that each defendant sued under such fictitious names is in some manner
14 responsible for the wrongs and damages as alleged herein; and in so acting was functioning as the
15 agent, servant, manager, supervisor, employee, subsidiary, and/or joint venturer of Defendant
16 Genessy and/or Armor Investments, and in doing the actions mentioned below was acting within
17 the course and scope of his or her authority as such agent, servant, manager, supervisor,
18 employee, subsidiary, and/or joint venturer with the permission and consent of Defendant
19 Genessy and/or Armor Investments.

20 11. Plaintiffs further allege that Defendants, directly or indirectly controlled or
21 affected the working conditions, wages, working hours, and conditions of employment of
22 Plaintiffs and the other class members and aggrieved employees so as to make each of said
23 Defendants employers and employers liable under the statutory provisions set forth herein.

24 12. This Court is the proper court and this action is properly filed in Los Angeles
25 County and in this judicial district because: (a) Defendants Genessy and/or Armor Investments
26 transaction business in Los Angeles County, (b) contracts of employment between Plaintiff and
27 Defendants Genessy and/or Armor Investments were made in Los Angeles County, (c) work
28 relevant to this action was performed in whole or primarily in Los Angeles County, and (d)

1 material transactions between Plaintiffs and Defendants Genessy and/or Armor Investments took
2 place within Los Angeles County, in the State of California.

3 13. As a direct and proximate result of the unlawful acts of Defendants, Plaintiffs and
4 those similarly situated have suffered and continue to suffer from loss of earnings and other
5 damages in amounts not yet ascertained, but subject to proof at trial.

6 14. Plaintiffs are informed and believe, and thereon allege, that Defendants, and each
7 of them, engaged in malice, fraud, and/or oppression in their actions against Plaintiffs.

8
9 **FACTS**

10 15. Defendant Genessy is a management firm that manages more than twenty (20)
11 residential properties in Los Angeles County, San Bernardino County, Imperial County, Stanislaus
12 County and Nacogdoches, Texas. According to Genessy's website, the company represents
13 fifteen (15) clients and provides special personnel and programs to assist residents with tenant-
14 related problems.

15 16. Genessy manages properties owned by Defendant Armor Investments, including
16 the West Adams Apartments located at 4015 W. Adams Boulevard, Los Angeles, California
17 90018, the Cedar Apartments located at 1554 S. Gramercy Place, Los Angeles, California 90019,
18 and Mansion House located at 1841 S. Manhattan Pl. Los Angeles, California, 90019.

19 17. Beginning in or around 1996 and continuing to present, Genessy and/or Armor
20 Investments employed Plaintiffs Gabriel Zamora and Ana Laura Cuevas as onsite managers at
21 Mansion House located at 1841 S. Manhattan Pl. Los Angeles, California, 90019. Plaintiffs
22 Zamora and Cuevas were compensated in the form of a "free apartment" with a stated marked
23 value of \$800 and were required to live in that apartment as a condition of their employment.
24 Together they received one combined check of \$544 monthly for their work, and they worked an
25 average of 80 hours per month, sometimes exceeding 100 hours per month.

26 18. On or about April 28, 2010, Genessy and/or Armor Investments employed Xochilt
27 Carrillo and Ismael Carrillo as on-site resident managers at the West Adams Apartments. The
28 Employment Agreement provided for monthly compensation in the form of a "free apartment"

1 with a stated market value of \$1,400.00 and required the Carrillos to occupy that apartment as a
2 condition of their employment. On or about April 30, 2010, the Carrillos signed a lease to live at
3 the West Adams Apartments and started their employment with Defendants. Plaintiffs worked an
4 average of approximately 85 hours a month and were each paid \$550 per month.

5 19. On or about August 1, 2012, Genessy and/or Armor Investments employed Elia
6 Rodriguez Arellano and Pedro Sosa as onsite managers at the Cedar Apartments at 1554 S.
7 Gramercy Place, Los Angeles, CA 90019. Their Employment Agreement provided that they
8 would be compensated in the form of a “free apartment” with a stated marked value of \$1,200
9 and that they would be required to live in that apartment as a condition of their employment.
10 Each of them was to be paid \$800 monthly for their work, and they worked up to 100 hours per
11 month.

12 20. Throughout the course of their employment, Plaintiffs were required to use their
13 personal cell phones and other supplies required for their employment but were never separately
14 reimbursed for such expenses in violation of Labor Code section 2802.

15 21. Over the course of their employment, Defendant’s policies did not permit the
16 Plaintiffs to take any paid sick days, which are guaranteed by Labor Code section 246.5(c)(1).

17 22. Plaintiffs are informed and believe that they and the other class members were
18 non-exempt, hourly employees who were not paid the minimum wage set by Los Angeles City or
19 by the State of California. Plaintiffs are informed and believe that they and the other class
20 members were paid only with the provision of a “free apartment.” As of January 1, 2020, an
21 employer with more than twenty-six (26) employees may apply a rent credit of only \$734.21 per
22 month for an individual resident manager or \$1,086.07 per month for a couple resident manager
23 team. The allowable lodging credit set by the State of California falls below what Plaintiffs and
24 the other class members earned in minimum wages. Plaintiffs and class members were not paid
25 wages earned in excess of the allowable lodging credits. Plaintiffs and class members have not
26 consented and cannot consent to a waiver of minimum wages set by Los Angeles City or by the
27 State of California.

28 23. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or

1 should have known that Plaintiffs and the other class members were entitled to receive all of their
2 minimum wages, pursuant to in Labor Code sections 1194 and 1197, with lodging credits applied
3 in accordance with Industrial Welfare Commission Wage Order 5-2001 and subsequent minimum
4 wage orders increasing the lodging credit amount correlative of the minimum wage, i.e. Plaintiffs
5 and the other class members were entitled to receive all minimum wages in excess of the lodging
6 credit limits. During the applicable time period, Plaintiff and all others similarly situated were
7 not always paid in accordance with Labor Code sections 1194 and 1197.

8 24. In not paying Plaintiffs and all others similarly situated as required under Labor
9 Code section 1197, Defendants Genessy and/or Armor Investments violated Labor Code section
10 204, requiring semimonthly payments of all wages owed. Plaintiffs did not receive payment of
11 all wages within any time permissible under California Labor Code section 204.

12 25. Furthermore, in not paying Plaintiffs and all others similarly situated as required
13 under Labor Code sections 1194 and 1197, Defendants Genessy and/or Armor Investments
14 violated Labor Code section 226(a), requiring complete, accurate, itemized wage statements.
15 Plaintiffs did not receive complete, accurate, itemized wage statements from Defendants. As a
16 result, Defendant Genessy and/or Armor Investments are further liable to Plaintiff and all others
17 similarly situated for monetary damages and injunctive relief pursuant to Labor Code sections
18 226(e) and (h).

19 26. The Carrillos's last day of employment with Genessy and/or Armor Investments
20 was on or about February 23, 2018. The Sosas's last day of employment with Genessy and/or
21 Armor Investments was in or around October 2018. The Carrillos and Sosas were required to
22 vacate the managers' residence following the termination of their employment.

23 27. On or about May 17, 2019, Plaintiffs Rodriguez Arellano and Sosa filed a claim
24 and sent a letter to the LWDA regarding their PAGA claims. On or about March 26, 2020,
25 Plaintiffs Zamora and Cuevas filed a claim and sent a letter to the LWDA regarding their PAGA
26 claims. No notice has been provided by the LWDA to Plaintiffs regarding its intent to investigate
27 their claims.
28

CLASS ACTION ALLEGATIONS

28. Plaintiffs bring this action on behalf of themselves individually and all others similarly situated, as a class action pursuant to Code of Civil Procedure section 382. Plaintiffs seek to represent the following class:

All persons who are employed or who have been employed by Defendants Genessy and/or Armor Investments within the State of California in an on-site resident manager position from four (4) years prior to the filing of the Initial Complaint to the present.

The proposed class represents all those individuals who may have been affected by Defendants' illegal conduct in denying its on-site resident managers minimum wage. Plaintiffs seek a judicial determination that sub-classes may be appropriate as to each particular violation to the extent practical.

29. The "Class Period" is designated as the time four (4) years prior to the filing of this Complaint through the trial date based upon the allegation that the violations of California's wage and hour laws and Unfair Competition Law, based upon information and belief, have been ongoing since at least four (4) years prior to the date of this Complaint. During the Class Period, Defendants had unlawful policies and/or practices of: (1) failing to pay minimum wage as required by law for all non-exempt employees in violation of Labor Code sections 1194 and 1197; (2) willfully failing to provide all wages due upon termination in violation of Labor Code sections 201 or 202 and, therefore, entitling former employees to waiting time penalties under Labor Code section 203, and (3) failing to provide accurate itemized wage statements; and (4) failing to provide reimbursement for business expenses in violation of Cal. Lab. Code § 2802.

30. This action has been brought and may be properly maintained as a class action under Code of Civil Procedure section 382 because there is a well-defined community of interest in the litigation and the proposed class is easily ascertainable:

- a. Numerosity: The class members are so numerous that joinder of all class members is impracticable. The membership of the entire class is unknown to Plaintiffs at this time; however, the class is estimated to be approximately twenty-five (25) to twenty-eight (28) individuals and the identity of such membership is readily ascertainable by

inspection of Defendants' employment records.

- b. Commonality: There are questions of law and fact as to the class members that predominate over questions affecting only the individual member. These common questions of law and fact include:
- i. Whether Defendants failed to pay the minimum wage in violation of California Labor Code sections 1194 and 1197;
 - ii. Whether Defendants violated California Labor Code sections 201 through 203 by failing to pay all monies due at the time employment terminated with Defendants for Plaintiff and other Class Members;
 - iii. Whether Defendants failed to provide accurate, itemized wage statements, as required by California Labor Code section 226;
 - iv. Whether Defendants failed to reimburse its employees' necessary business expenses as required by California Labor Code section 2802;
 - v. Whether Defendants violated Business and Professions Code sections 17200, *et seq.* by violating the labor laws and regulations noted herein.
- c. Typicality: Plaintiffs' claims are typical of all other class members demonstrated herein. Plaintiffs will fairly and adequately protect the interests of the other class members with whom they have a well-defined community of interest.
- d. Adequacy: Plaintiffs will fairly and adequately protect the interests of each class member, with whom they have a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiffs has no interest that are antagonistic to the other class members. Plaintiffs' attorneys, the proposed class counsel, are well-versed in the rules governing class action discovery, certification, and settlement. Plaintiffs have incurred, and during the pendency of this action, will continue to incur costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.
- e. Superiority: A class action is superior to other available methods for the fair and efficient adjudication of this litigation because individual joinder of all class members

1 is impracticable.

2 f. Public Policy Considerations: The California labor laws through which Plaintiffs
3 allege the following causes of action individually, and on behalf of all others similarly
4 situated, are broadly remedial in nature. These labor laws serve an important public
5 interest in establishing minimum working conditions and standards in California.
6 They protect employees from exploitation by employers who may seek to take
7 advantage of their superior economic and bargaining power in setting onerous terms
8 and conditions of employment. The class action mechanism is a particularly efficient
9 and appropriate procedure to redress the injuries alleged herein. If each employee in
10 the class were required to file an individual action, the Defendants would be able to
11 use their superior financial and legal resources to gain an unfair advantage over each
12 individual class member. Moreover, requiring each class member to pursue an
13 individual action would discourage the assertion of meritorious causes of action by
14 employees who would likely be disinclined to file such individual actions due to a
15 justifiable fear of retaliation and damage to their careers at subsequent employment.

16 WHEREFORE, Plaintiffs and the Class allege as follows:

17
18 **FIRST CAUSE OF ACTION**

19 **FAILURE TO PAY MINIMUM WAGES**

20 **CAL. LABOR CODE SECTIONS 1194 AND 1197**

21 **(Against Defendants Genessy, Armor Investments and DOES 1 through 10)**

22 **(On Behalf of Plaintiffs and All Aggrieved Class Members)**

23 31. As a separate and distinct cause of action, Plaintiffs and the Class complain and
24 reallege all the allegations contained in this Complaint, and incorporate them by reference into
25 this cause of action as though fully set forth herein, excepting those allegations which are
26 inconsistent with this cause of action. This cause of action is brought against Defendants
27 Genessy, Armor Investments, and DOES 1 through 10.

28 32. During the Class Period, Labor Code sections 1194 and 1197 applied to

1 Defendants' employment of Plaintiffs and the rest of the Class. At all relevant times hereto, Labor
2 Code section 1194 provides a civil remedy for employees receiving less than the minimum wage,
3 regardless of any agreement to work for a lesser wage. At all times relevant hereto, Labor Code
4 section 1197 makes it unlawful for any employer to pay any of its employees less than the
5 minimum wage fixed by state or local law.

6 33. During the Class Period, Plaintiffs and the Class performed work for Defendants
7 as on-site residential managers.

8 34. Defendants paid Plaintiff and other class members only the alleged market value
9 of their apartments, without consideration for the minimum lodging credit set by the State of
10 California. As a result, Defendant did not pay Plaintiff and the rest of the Class minimum wages
11 earned in excess of the lodging credit.

12 35. The minimum wage in the City of Los Angeles required to be paid by employers
13 with more than twenty-six (26) employees was \$9.00 per hour in 2014 and 2015, \$10.50 per hour
14 commencing July 2016, \$12.00 per hour commencing July 2017, \$13.25 per hour commencing
15 July 2018, and \$14.25 per hour commencing July 2019.

16 36. Plaintiffs and the Class are owed wages for all hours worked, which were not
17 offset by the applicable lodging credit.

18 WHEREFORE, Plaintiffs and the Class requests relief as hereafter provided.

19
20 **SECOND CAUSE OF ACTION**

21 **WAITING TIME PENALTIES**

22 **LABOR CODE SECTIONS 201 THROUGH 203**

23 **(Against Defendants Genessy, Armor Investments and DOES 11 through 20)**

24 **(On Behalf of Plaintiffs and All Aggrieved Class Members)**

25 37. As a separate and distinct cause of action, Plaintiffs and the Class complain and
26 reallege all the allegations contained in this Complaint, and incorporate them by reference into
27 this cause of action as though fully set forth herein, excepting those allegations which are
28 inconsistent with this cause of action. This cause of action is brought against Defendants

1 Genessy, Armor Investments, and DOES 11 through 20.

2 38. During the Class Period, Labor Code sections 201 through 203 applied to
3 Defendants' employment of Plaintiffs and the rest of the Class. At all times relevant hereto,
4 Labor Code section 201 provided that, if an employer such as Defendants discharged an
5 employee such as a member of the Class, the wages earned and unpaid at the time of discharge
6 were due and payable immediately. Furthermore, Labor Code § 202 provided that, if an
7 employee such as a member of the Class voluntarily leaves his or her employment, the wages
8 earned and unpaid must be paid by the employer within seventy-two (72) hours thereafter, unless
9 the employee has given seventy-two (72) hours previous notice of his or her intention to leave, in
10 which case the employee is entitled to receive his or her wages immediately at the time of
11 quitting.

12 39. Plaintiffs are informed and believe, and thereon allege that during the Class
13 Period, Defendants willfully failed to pay class members, who are former employees, their earned
14 and unpaid wages, either at the time of their discharge or within seventy-two (72) hours of their
15 quitting. Defendants therefore violated Labor Code sections 201 and 202. During the Class
16 Period, Labor Code section 203 provided that, if an employer such as Defendants fails to pay any
17 wages of an employee who is discharged or who quits, the wages of the employee shall continue
18 as a penalty from the due date thereof at the same rate until paid or until an action therefor is
19 commenced, but the wages shall not continue for more than thirty (30) days.

20 40. Defendants willfully failed and refused, and continue willfully to fail and refuse, to
21 pay promptly all compensation and wages owed including unpaid wages to Plaintiffs and Class
22 Members whose employment terminated as required by Labor Code sections 201 and 202. As a
23 result, Defendants are liable to Plaintiff and Class Members for waiting time penalties, together
24 with interest thereon and attorneys' fees and costs, under Labor Code section 203.

25 WHEREFORE, Plaintiffs and the Class requests relief as hereafter provided.

26
27 ///

28 ///

THIRD CAUSE OF ACTION

**FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS IN
VIOLATION OF LABOR CODE SECTION 226(a)**

(Against Defendants Genessy, Armor Investments and DOES 21 through 30)

(On Behalf of Plaintiffs and All Aggrieved Class Members)

41. As a separate and distinct cause of action, Plaintiffs and the Class complain and reallege all the allegations contained in this Complaint, and incorporate them by reference into this cause of action as though fully set forth herein, excepting those allegations which are inconsistent with this cause of action. This cause of action is brought against Defendants Genessy, Armor Investments and DOES 21 through 30.

42. Labor Code section 226(a) requires an employer to provide with each wage payment an itemized statement that gives specific and accurate information for each pay period.

43. Labor Code section 558.1 makes liable any “employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802.”

44. For a significant period, spanning the entire length of Plaintiffs’ employment, and the employment of others similarly situated, with Defendant and likely continuing to the present, minimum wage in excess of the applicable lodging credits have not been paid and therefore are inaccurately reported on wage statements. As a result, the itemized wage statements provided were not accurate; they were false and misleading.

45. Because of Defendant’s violation of Labor Code section 226(a), Plaintiffs and others similarly situated were harmed.

46. Plaintiffs and others similarly situated are therefore entitled to recover monetary damages as stated in Labor Code section 226(e) as well as injunctive relief as provided in Labor Code section 226(g).

47. In failing to accurately record the hours of Plaintiffs and all others similarly situated, Plaintiffs and the members of the Class identified herein, are entitled to recover in a civil

1 action all damages and/or penalties pursuant to Labor Code section 226, including interest,
2 penalties, reasonable attorneys' fees, and costs of suit pursuant to that section.

3 WHEREFORE, Plaintiffs and the Class request relief as hereafter provided.

4
5 **FOURTH CAUSE OF ACTION**
6 **VIOLATIONS OF CALIFORNIA BUSINESS AND PROFESSIONS**
7 **CODE SECTIONS 17200, ET SEQ.**

8 **(Against Defendants Genessy, Armor Investments and DOES 31 through 40)**

9 **(On Behalf of Plaintiffs and All Aggrieved Class Members)**

10 48. As a separate and distinct cause of action, Plaintiffs and the Class complain and
11 reallege all the allegations contained in this Complaint, and incorporate them by reference into
12 this cause of action as though fully set forth herein, excepting those allegations which are
13 inconsistent with this cause of action. This cause of action is brought against Defendants
14 Genessy, Armor Investments, and DOES 31 through 40.

15 49. Business and Professions Code section 17200 *et seq.* defines unfair competition to
16 include any "unfair," "unlawful," or "deceptive" business practice. California's Unfair
17 Competition Law also provides for injunctive relief and restitution for violations.

18 50. Defendants have committed numerous unfair, unlawful, or deceptive business
19 practices including: (1) failing to pay hourly employees minimum wage, (2) failing to provide
20 each employee with an accurate itemized wage statement for each pay period as required by law,
21 (3) failing to pay all wages during employment, (4) denying employees the right to use accrued
22 sick days, discharge, threaten to discharge, demote, suspend, or in any manner discriminate
23 against an employee for using accrued sick days, attempting to exercise the right to use accrued
24 sick days, (5) failing to pay all final wages, and (6) failing to reimburse employees' necessary
25 business expenses.

26 51. Plaintiffs are informed and believe, and thereon alleges, that Defendants continue
27 to engage in the practices described herein and is continuing and will continue to benefit
28 financially from these unlawful and unfair practices unless enjoined by this court from doing so.

1 52. As a proximate result of Defendants' actions, Plaintiffs and others similarly
2 situated have suffered injury in fact and loss of money or property.

3 53. The actions of Defendants detailed herein against present and former California
4 employees constitutes unfair, unlawful, and deceptive business practices, and constitutes actions
5 for which injunctive relief and restitution are available.

6 54. Under Business and Professions Code section 17200 *et seq.*, Plaintiffs and others
7 similarly situated are entitled to restitution, injunctive relief, equitable relief, and disgorgement of
8 all funds, which lawfully should have been paid as wages and wrongfully withheld by Defendants
9 from four (4) years since the filing of the initial Complaint, together with interest thereon, as well
10 as costs and reasonable attorneys' fees pursuant to statute.

11 55. Under Business and Professions Code section 17200 *et seq.*, Defendants should be
12 enjoined from any and all unfair, unlawful, and deceptive business practices and made to disgorge
13 these ill-gotten gains as these practices are harmful to current and former employees.

14 WHEREFORE, Plaintiffs and the Class request relief as hereafter provided.

15
16 **FIFTH CAUSE OF ACTION**

17 **FAILURE TO REIMBURSE BUSINESS EXPERIENCES**

18 **IN VIOLATION OF CAL. LAB. CODE § 2802**

19 **(Against Defendants Genessy, Armor Investments and DOES 41 through 50)**

20 **(On Behalf of Plaintiffs and All Aggrieved Class Members)**

21 56. As a separate and distinct cause of action, Plaintiffs and the Class complain and
22 reallege all the allegations contained in this Complaint, and incorporate them by reference into
23 this cause of action as though fully set forth herein, excepting those allegations that are
24 inconsistent with this cause of action. This cause of action is brought against Defendants
25 Genessy, Armor Investments and DOES 41 through 50.

26 57. During all relevant times, Plaintiffs were employees of Defendants Genessy and/or
27 Armor Investments.

28 58. California Labor Code Section 2802 requires employers to indemnify their

1 employees for “all necessary expenditures or losses incurred by the employee in direct
2 consequence of the discharge of his or her duties, or of his or her obedience to the directions of
3 the employer, even though unlawful, unless the employee, at the time of obeying the directions,
4 believed them to be unlawful.” “Necessary expenditures or losses” shall include all reasonable
5 costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the rights
6 granted by this section.

7 59. During Plaintiffs’ employment with Defendants Genessy and/or Armor
8 Investments, Plaintiffs and the Class were not reimbursed for all necessary expenditures incurred
9 as a result of carrying out their job duties, including, but not limited to, reimbursement for their
10 personal cell phones.

11 60. Labor Code section 558.1 makes liable any employer or other person acting on
12 behalf of an employer, who violates, or causes to be violated, any provision regulating minimum
13 wages or hours and days of work in any order of the Industrial Welfare Commission, or violates,
14 or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802.

15 61. As a proximate result of the conduct of Defendants in violation of Cal. Lab. Code
16 § 2802, Plaintiffs and the Class have been harmed.

17 62. Defendants’ violation of Cal. Lab. Code § 2802 was a substantial factor in causing
18 Plaintiffs’ harm.

19 WHEREFORE, Plaintiffs and the Class request relief as hereafter provided.

20
21 **SIXTH CAUSE OF ACTION**

22 **PENALTIES UNDER LABOR CODE §§ 2698, ET SEQ.**

23 **(PRIVATE ATTORNEYS GENERAL ACT)**

24 **(By Plaintiffs Rodriguez Arellano, Sosa, Zamora, and Cuevas, Individually and as**
25 **Representatives of Aggrieved Employees)**

26 63. Plaintiffs repeat and reallege the allegations contained in all preceding paragraphs
27 and incorporates the same by reference as though fully set forth herein.

28 64. Plaintiffs bring this cause of action as a representative cause of action pursuant to

1 Labor Code §§ 2698, *et seq.* for violations of Labor Code §§ 201-203, 204, 226, 226.6, 246.5,
2 1194, and 1197 on behalf of all aggrieved employees which are defined as all persons who are
3 employed or who have been employed by Defendant Genessy and/or J O Armor within the State
4 of California in an on-site resident manager position from four (4) years prior to the filing of the
5 Initial Complaint to the present who have not signed a release of the subject claims.

6 65. In addition to the above, Plaintiffs Zamora and Cuevas bring this cause of action as
7 a representative cause of action pursuant to Labor Code §§ 2698, *et seq.* for violations of Labor
8 Code § 2802 on behalf of all aggrieved employees which are defined as all persons who are
9 employed or who have been employed by Defendant Genessy and/or J O Armor within the State
10 of California in an on-site resident manager position from four (4) years prior to the filing of the
11 Third Amended Complaint to the present who have not signed a release of the subject claims.

12 66. On or about May 17, 2019, Plaintiffs Rodriguez Arellano and Sosa provided
13 written notice by certified mail to the Labor and Workforce Development Agency (“LWDA”) and
14 Defendants of the specific provisions of the California Labor Code that Defendants have violated
15 and continue to violate.

16 67. On or about March 26, 2020, Plaintiffs Zamora and Cuevas provided written
17 notice by certified mail to the Labor and Workforce Development Agency (“LWDA”) and
18 Defendants of the specific provisions of the California Labor Code that Defendants have violated
19 and continue to violate.

20 68. As of present, the LWDA had not responded to any of the Plaintiffs’ notices,
21 indicating that it would not investigate the alleged violations.

22 69. Accordingly, Plaintiffs have exhausted all administrative procedures required of
23 him under Labor Code §§ 2698, 2699 and 2699.3, and as a result, are justified as a matter of right
24 in bringing forward this cause of action.

25 70. As a result of the acts alleged above, Plaintiffs seek penalties under Labor Code §§
26 2698 and 2699 because of Defendants’ violation of numerous provisions of the California Labor
27 Code.

28 71. Plaintiffs seek penalties for Defendants’ conduct as alleged herein as permitted by

1 law. Specifically, Plaintiffs seek penalties under Labor Code §2699, for the following.

2 (1) Defendants' failure to comply with the requirement of Labor Code §§ 204 and 210
3 to pay, without condition and within the time set by the applicable article, all wages, or
4 parts thereof, which Defendants conceded to be due;

5 (2) Defendants' failure to comply with the requirement of Labor Code §§ 201 and 202
6 to pay wages due to former employees;

7 (3) Defendants' failure to comply with the requirement of Labor Code § 203 to pay
8 waiting time penalties to former employees;

9 (4) Defendants' commission of a misdemeanor in violation of Labor Code § 226.6 by
10 knowingly and intentionally violating the provisions of California Labor Code § 226;

11 (5) Defendants' failure to comply with the requirement of Labor Code § 246.5 by
12 denying employees the right to use accrued paid sick days; and

13 (6) Defendants' failure to comply with the requirement of Labor Code § 2802 by
14 failing to reimburse its employees' necessary business expenses.

15 72. Under Labor Code §2699, Plaintiffs and the aggrieved employees are entitled to
16 \$100.00 for any initial violation and \$200.00 for all subsequent violations of the above-mentioned
17 provisions of the California Labor Code.

18 73. Under Labor Code §2699, Plaintiffs and the aggrieved employees shall be awarded
19 twenty-five percent (25%) of all penalties received under the Private Attorneys General Act,
20 interest, attorneys' fees and costs.

21 74. Under Labor Code §2699, the State of California should be awarded seventy-five
22 percent (75%) of the penalties due received under the Private Attorneys General Act.

23 WHEREFORE, Plaintiffs request relief as hereafter provided.
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1 11. That Defendants be found to have unlawfully failed to pay all compensation owed
2 at the time of separation of employment of Plaintiffs and the other class members no longer
3 employed by Defendants as required by Labor Code section 201 and 202;

4 12. For waiting time penalties according to proof pursuant to Labor Code section 203;

5 13. For an award including prejudgment interest, costs, and attorneys' fees to Plaintiffs
6 and all aggrieved Class Members pursuant to Labor Code sections 1194 and 1197; and

7 14. For such other and further relief as the Court may deem just and proper.
8

9 **As to the Third Cause of Action**

10 15. That the Court determine that this action may be maintained as a class action under
11 Code of Civil Procedure section 382;

12 16. That Plaintiffs Xochilt Carrillo, Ismael Carrillo, Elia Rodriguez Arellano, Pedro
13 Sosa, Ana Laura Cuevas, and Gabriel Zamora be appointed as the representatives of the Class;

14 17. That counsel for Plaintiffs be appointed as Class counsel;

15 18. That Defendants be found to have not provided Plaintiffs and aggrieved employees
16 accurate itemized statements for each applicable pay period in violation of Labor Code section
17 226;

18 19. For all applicable damages, civil penalties, and restitution available to Plaintiffs
19 and other Class members pursuant to Labor Code section 226 and all other Labor Code
20 provisions;

21 20. For injunctive relief as specified in Labor Code section 226(h);

22 21. For an award including prejudgment interest, costs, and attorneys' fees to Plaintiffs
23 and all aggrieved Class Members pursuant to Labor Code sections 1194 and 1197, as allowed by
24 law; and

25 22. That this Court award such other and further relief as this Court may deem
26 appropriate.
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1 **As to the Fourth Cause of Action**

2 23. That the Court determine that this action may be maintained as a class action under
3 Code of Civil Procedure section 382;

4 24. That Plaintiffs Xochilt Carrillo, Ismael Carrillo, Elia Rodriguez Arellano, Pedro
5 Sosa, Ana Laura Cuevas, and Gabriel Zamora be appointed as the representatives of the Class;

6 25. That counsel for Plaintiffs be appointed as Class counsel;

7 26. That Defendants be found to have violated Business and Professions Code sections
8 17200 *et seq.* by engaging in unfair and unlawful business practices;

9 27. That Defendants provide restitutionary disgorgement to Plaintiffs and all aggrieved
10 Class Members of all monies owed;

11 28. That Defendants be enjoined from engaging in unlawful and unfair competition
12 and that they be further enjoined from the specific business practices mentioned and described
13 herein;

14 29. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
15 California Code of Civil Procedure section 1021.5; and

16 30. For such other and further relief as the Court may deem just and proper.
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18 **As to the Fifth Cause of Action**

19 31. That the Court determine that this action may be maintained as a class action under
20 Code of Civil Procedure section 382;

21 32. That Plaintiffs Xochilt Carrillo, Ismael Carrillo, Elia Rodriguez Arellano, Pedro
22 Sosa, Ana Laura Cuevas, and Gabriel Zamora be appointed as the representatives of the Class;

23 33. That counsel for Plaintiffs be appointed as Class counsel;

24 34. That Defendants be found to have unlawfully failed to provide Plaintiffs and all
25 other aggrieved Class Members reimbursement of necessary business expenses in violation of
26 Labor Code section 2802;
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1 35. For all applicable damages, civil penalties, and restitution available to Plaintiffs
2 and other aggrieved Class Members pursuant to Labor Code section 2802 and all other Labor
3 Code provisions;

4 36. For an award including prejudgment interest, costs, and attorneys' fees to Plaintiffs
5 and all aggrieved Class Members pursuant to Labor Code sections 2802, as allowed by law; and

6 37. That this Court award such other and further relief as this Court may deem
7 appropriate.

8
9 **As to the Sixth Cause of Action**

10 38. That the Court determine that Plaintiffs Elia Rodriguez Arellano, Pedro Sosa,
11 Gabriel Zamora, and Ana Laura Cuevas may bring this cause of action on behalf of all aggrieved
12 employees pursuant to Labor Code §§ 2699 and 2699.3;

13 39. For an award of twenty-five percent (25%) of all penalties due under California
14 law and interest to the aggrieved employees pursuant to Labor Code §2699;

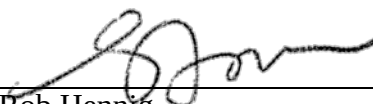
15 40. For an award of attorneys' fees and costs pursuant to Labor Code §2699;

16 41. For an award of seventy-five percent (75%) of the penalties due under California
17 law to the State of California pursuant to Labor Code §§ 2699; and,

18 42. For such other and further relief as the court deems appropriate

19
20 Dated: June 22, 2020

HENNIG RUIZ & SINGH, P.C.

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23 Rob Hennig
24 Brandon Ruiz
25 Shoshee Hui

26 Attorneys for PLAINTIFFS XOCHILT CARRILLO
27 ISMAEL CARRILLO, ELIA RODRIGUEZ
28 ARELLANO, PEDRO SOSA, ANA LAURA
 CUEVAS, and GABRIEL ZAMORA, individually
 and on behalf of all others similarly-situated

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