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Attorneys for Plaintiffs,
CHARLES GOULET and Stacey Bell, on behalf of themselves and all others similarly situated,

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

CHARLES GOULET, an individual, and
STACEY BELL, an individual, on behalf of
themselves and all others similarly situated;

Plaintiff,

v.

INDUSTRIAL FINISHES & SYSTEMS, INC. an
Oregon Corporation, and DOES 1 through 50
inclusive,

Defendants.

Case No.: 20STCV09977

CLASS ACTION

**FIRST AMENDED COMPLAINT FOR
DAMAGES**

1. Failure to Pay Minimum Wage and Overtime Wages;
2. Failure to Provide Meal Periods;
3. Failure to Provide Rest Periods;
4. Failure To Reimburse For Necessary Expenditures;
5. Failure to Provide Accurate Wage Statements;
6. Failure to Pay Wages Upon Ending Employment;
7. Unfair Competition (Business and Professions Code § 17200 et seq.); and
8. Violation of the Private Attorneys' General Act, Labor Code § 2698 et seq.;

DEMAND FOR JURY TRIAL

[Assigned for All Purposes to the Hon. Maren Nelson; Dept:17]

Complaint Filed: March 12, 2020
Trial Date: None Set

By Fax

FILED
Superior Court of California
County of Los Angeles

APR 27 2021

Sherri R. Carter, Executive Officer/Clerk
By [Signature], Deputy
Yuliya Tarasyuk

1 Plaintiff CHARLES GOULET and STACEY BELL on behalf of themselves and all others
2 similarly situated, complain and allege as follows:

3 I.

4 **INTRODUCTION**

5 1. This is a class action brought on behalf of Plaintiffs CHARLES GOULET (hereinafter
6 "Goulet") and STACEY BELL (hereinafter "Bell"). (Goulet and Bell are herein collectively referred to
7 "Plaintiffs") and the class they seek to represent ("Plaintiff Class"), as defined herein, as all non-exempt
8 employees employed by or formerly employed by Defendant INDUSTRIAL FINISHES & SYSTEMS,
9 INC. (herein referred to as "Defendant"). The Plaintiff Class consists of all non-exempt employees
10 employed by or formerly employed by Defendant within the State of California who are California
11 Citizens at the time of the filing of this Complaint. The "Class Period" is defined as the four (4) years
12 prior to the filing of the Complaint through the date final judgment is entered. Plaintiffs reserve the right
13 to amend this Complaint to reflect a different "Class Period" as further discovery is conducted.

14 2. Plaintiff Goulet also seeks to represent similarly Aggrieved Employees consisting of all
15 non-exempt employees employed by or formerly employed by Defendant within the State of California
16 who are California Citizens during the PAGA Liability Period. The term, "PAGA Liability Period" is
17 defined as one (1) year prior to the filing of Plaintiff's administrative complaint with the Labor and
18 Workforce Development Agency (LWDA) through the present. Plaintiff filed his administrative
19 complaint with the LWDA on March 6, 2020. The Liability Period is from March 6, 2019 to the Present.
20 Plaintiff reserves the right to amend this complaint to reflect a different "PAGA Liability Period" or
21 modify the definition of "Aggrieved Employees" as further discovery is conducted.

22 3. Plaintiffs individually, and on behalf the class they seek to represent, seek relief against
23 Defendant for (1) failure to pay all wages due, including minimum, regular, and overtime wages as a
24 result of Defendant's policy of improperly paying its non-exempt hourly employees; (2) failure to
25 provide meal periods; (3) failure to provide rest periods; (4) failure to reimburse for necessary
26 expenditures; (5) failure to provide accurate wage statements; and (6) failure to pay wages upon ending
27 employment of terminated or resigned employees. Plaintiff Goulet individually, and on behalf the
28 Aggrieved Employees he seeks to represent, seeks relief against Defendants for violation of the Private
Attorneys' General Act, Labor Code § 2698 et seq. stemming from the aforementioned violations.

1 Plaintiffs further seek equitable remedies in the form of declaratory relief and relief under Business and
2 Professions Code section 17200 et seq. for unfair business practices.

3 4. At all relevant times herein, Defendant, has consistently maintained and enforced against
4 Plaintiff Class the unlawful practices and policies described herein.

5 **II.**

6 **JURISDICTION AND VENUE**

7 5. Venue is proper in this Judicial district and the County of Los Angeles because the
8 Defendant maintained its location and transacts business in this county, the obligations and liability arise
9 in this county, and work was performed by Plaintiffs and members of the proposed class made the subject
10 of this action in the County of Los Angeles, California.

11 6. The California Superior Court has jurisdiction in the matter because the individual claims
12 are under the Seventy-Five Thousand Dollar (\$75,000.00) jurisdictional threshold for Federal Court and
13 upon information and belief Plaintiffs are residents of and/or domiciled in the State of California.

14 7. Further, there is no federal question at issue as the issues herein is based solely on
15 California Statutes and law including the California Labor Code, Industrial Welfare Commission Wage
16 Orders, *Code of Civil Procedure*, *Rule of Court*, and *Business and Professions Code*.

17 **III.**

18 **THE PARTIES**

19 **A. The Plaintiffs**

20 8. Plaintiff Goulet at various relevant times herein, was an employee of the Defendant and
21 entitled to compensation for all hours worked, minimum and overtime compensation, meal and rest
22 premiums, and un-reimbursed necessary job-related expenses and penalties from Defendant. Plaintiff
23 was employed by the Defendant from on or about September 2017 through July 2019, more than three
24 (3) years prior to the commencement of this action, in the County of Los Angeles at various times herein
25 relevant. Plaintiff was employed by the Defendant during the Class Period in a non-exempt hourly
26 position. Each of the Plaintiff Class members are identifiable, current, and/or formerly similarly situated
27 persons who were employed in non-exempt hourly positions in California for the Defendant during the
28 Class Period.

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1 9. Plaintiff Bell at various relevant times herein, was an employee of the Defendant and
2 entitled to compensation for all hours worked, minimum and overtime compensation, meal and rest
3 premiums, and un-reimbursed necessary job-related expenses and penalties from Defendant. Plaintiff
4 was employed by the Defendant from on or about July 2018 through July 2020, in the County of Los
5 Angeles at various times herein relevant. Plaintiff was employed by the Defendant during the Class
6 Period in a non-exempt hourly position. Each of the Plaintiff Class members are identifiable, current,
7 and/or formerly similarly situated persons who were employed in non-exempt hourly positions in
8 California for the Defendant during the Class Period.

9
10 **B. The Defendants**

11 10. Plaintiffs are informed and believe, and based thereon allege that, INDUSTRIAL
12 FINISHES & SYSTEMS, INC., is an Oregon Corporation doing business in the state of California and
13 is and/or was the employer of the Plaintiffs and Plaintiff Class during the Class Period. During the
14 liability period, Defendant employed Plaintiffs and similarly situated persons and failed to pay Plaintiffs
15 and Plaintiff Class for all hours worked including minimum wage, overtime premium for overtime hours
16 worked, failed to provide lawful meal and rest periods or compensation in lieu thereof, failed to provide
17 reimbursement for necessary expenditures, failed to provide accurate itemized wage statements, and
18 failed to pay due and owing wages upon ending of employment for employees within California. On
19 information and belief and based thereon alleges that Defendant is conducting business in good standing
20 in California.

21 11. Plaintiffs are ignorant of the true names, capacities, relationships and extent of
22 participation in the conduct herein alleged, of the Defendant sued herein as DOES 1 through 50, inclusive,
23 but on information and belief allege that said Defendant is legally responsible for (1) failure to pay all
24 wages due; (2) failure to provide meal periods; (3) failure to provide rest periods; (4) failure to reimburse
25 for necessary expenditures; (5) failure to provide accurate wage statements; and (6) failure to pay wages
26 upon ending employment to Plaintiffs and the Plaintiff Class members by virtue of their unlawful
27 practices, and therefore sue the Defendant by such fictitious names. Plaintiff Goulet, also alleges DOES
28 1 through 50, on information and belief, is legally responsible for violation of the Private Attorneys'

1 General Act, Labor Code § 2698 et seq. Plaintiffs will amend this complaint to allege the true names and
2 capacities of the DOE Defendant when ascertained.

3 12. Plaintiffs are informed and believe, and based thereon allege, that each Defendant acted
4 in all respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme,
5 business plan or policy in all respects pertinent hereto, and the acts of each Defendant legally attributable
6 to the other Defendant.

7 IV.

8 **GENERAL ALLEGATIONS**

9 13. California *Labor Code* § 1194 provides that notwithstanding any agreement to work for
10 a lesser wage, an employee receiving less than the legal overtime compensation is entitled to recover in
11 a civil action the unpaid balance of their overtime compensation, including interest thereon, reasonable
12 attorneys' fees, and costs of suit.

13 14. Further, *Business and Professions Code* § 17203 provides that any person who engages
14 in unfair competition may be enjoined in any court of competent jurisdiction. *Business and Professions*
15 *Code* § 17204 provides that any person who has suffered actual injury and has lost money or property as
16 a result of the unfair competition may bring an action in a court of competent jurisdiction.

17 15. During all, or a portion of the Class Period, Plaintiffs and each member of the Plaintiff
18 Class was employed by Defendant and each of them, in the State of California. Plaintiffs and each of the
19 Plaintiff Class members were non-exempt employees covered under one or more Industrial Welfare
20 Commission (IWC) Wage Orders, and *Labor Code* § 510, and/or other applicable wage orders,
21 regulations and statutes, and each Plaintiff Class member was not subject to an exemption for executive,
22 administrative, and professional employees, which imposed obligations on the part of the Defendant to
23 pay Plaintiffs and Plaintiff Class Members lawful overtime compensation.

24 16. During the Class Period, Defendant was obligated to pay Plaintiffs and Plaintiff Class
25 Members for all hours worked. Defendant was obligated to pay Plaintiffs and Plaintiff Class Members
26 minimum wages and overtime compensation for all hours worked over eight (8) hours of work in one (1)
27 day or forty (40) hours in one (1) week and double-time for hours worked in excess of twelve (12) in one
28 day.

1 17. Plaintiffs and each Class Member primarily performed non-exempt work in excess of the
2 maximum regular rate hours set by the IWC in the applicable Wage Orders, regulations or statutes, and
3 therefore entitled the Plaintiffs and Plaintiff Class Members to overtime compensation at time and a half
4 rate, and when applicable, double time rates as set forth by the applicable Wage Orders, regulations
5 and/or statutes.

6 18. During the Class Period, the Defendant and each of them, required Plaintiffs and Plaintiff
7 Class to work through meal periods without compensation for their time due to Defendant's policy of
8 auto-deducting meal periods of thirty (30) minutes to an hour, regardless of whether a thirty (30) minute
9 off duty meal period was taken. Plaintiffs and Plaintiff Class routinely worked during meal periods due
10 to Defendant prioritizing work duties over the taking of break periods.

11 19. During the Class Period, the Defendant and each of them, required Plaintiffs to work
12 beyond the scheduled end of their shifts without compensation for their time. Despite Plaintiffs and
13 Plaintiff Class working beyond the scheduled end of their shifts, Plaintiffs and Plaintiff Class were not
14 compensated for their time worked.

15 20. During the Class Period, the Defendant and each of them, required the Plaintiffs and Class
16 members to work under a "Rounding Policy" that is not fair and neutral and resulted, over a period of
17 time, in failure to compensate the employees properly for all the time they have actually worked, in
18 violation of the various applicable Wage Orders, regulations and statutes, and the Defendant: (1) willfully
19 failed and refused, and continues to fail and refuse, to pay compensation for all hours worked, including
20 minimum wage and lawful overtime compensation to the Plaintiff Class Members; and (2) willfully failed
21 and refused, and continues to fail and refuse, to pay due and owing wages promptly upon termination of
22 employment to Plaintiffs and Plaintiff Class Members.

23 21. During the Class Period, the Defendant and each of them, failed to compensate Plaintiffs
24 and Plaintiff Class at the legally required rate of pay with respect to meeting the requirements of paying
25 wages earned, including, minimum, overtime, double-time, and remuneration when calculating the
26 employees' regular rate of pay. Defendant intentionally excluded remuneration of "bonus" pay that must
27 be included in all employees' regular rate of pay in order to avoid payment of overtime wages and other
28 benefits in violation of the Labor Code and the order issued by the IWC.

1 22. During the Class Period, the Defendants and each of them, as a result of Defendant's
2 failure to provide Plaintiffs and Plaintiff Class with all wages earned as described herein, also failed to
3 provide Plaintiffs and Plaintiff Class with accurate itemized wage statements listing the accurate gross
4 wages earned, total hours worked, net wages earned, and all applicable hourly rates and the corresponding
5 number of hours worked at each hourly rate by the employee.

6 23. During the Class Period, Defendant was obligated to provide Plaintiffs and Plaintiff Class
7 with a timely work-free meal and/or rest period(s). During the Class Period, Defendant, and each of
8 them, failed and/or refused to schedule Plaintiffs and Plaintiff Class in an overlapping manner so as to
9 reasonably provide lawful and timely meal and/or rest breaks and/or shift relief for Plaintiffs and Plaintiff
10 Class, thereby causing members of the Plaintiff Class to work without being given paid ten (10) minute
11 rest periods for every four (4) hours or major fraction thereof worked and without being given a timely
12 thirty (30) minute meal period for shifts of at least five (5) hours and a second thirty (30) minute meal
13 period for shifts of at least ten (10) hours during which Plaintiff Class was relieved of all duties and free
14 to leave the premises. Defendant further failed and/or refused to schedule Plaintiffs and Plaintiff Class
15 in an overlapping manner and/or provide shift relief for Plaintiffs and Plaintiff Class so as to reasonably
16 ensure meal and/or rest breaks were taken within the required statutory time frame as required by law.
17 Furthermore, Defendant failed and/or refused to pay any Plaintiff Class one (1) hour's pay at the
18 employees' regular rate of pay as premium compensation for failure to provide lawful rest and/or meal
19 periods or to providing such rest and/or meal periods within the statutory time frame as a result of their
20 scheduling policy.

21 24. Class Members who ended their employment during the Class Period but were not paid
22 the above are due compensation for all hours worked and overtime compensation timely upon the
23 termination of their employment as required by *Labor Code* §§ 201-203 and are entitled to penalties as
24 provided by *Labor Code* § 203.

25 25. During the Class Period, Defendant was obligated to indemnify his or her employee for
26 all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of
27 his or her duties as required by Labor Code sections 2802. Plaintiffs and the Plaintiff Class were not
28 reimbursed by Defendant for necessary expenditures as a direct consequence of the discharge of their
duties. Defendant knowingly, willingly, and intentionally attempted to offset the cost of doing business

1 on the Plaintiffs and Plaintiff Class. Defendant had a corporate practice and policy of requiring Plaintiffs
2 and Plaintiff Class to shoulder the burden of Defendant's cost of doing business by failing to reimburse
3 Plaintiffs and Plaintiff Class for necessary business expenditures, specifically the cost purchase of cell
4 phones and cell phone service providers. Defendant required Plaintiffs and Plaintiff Class to use their
5 personal cell phones to send pictures of products or job assignments to supervisors in the course of
6 carrying out their job duties.

7 **V.**

8 **ADMINISTRATIVE PREREQUISITE**

9 26. Prior to filing this Complaint, On March 6, 2020, Plaintiff Goulet gave written notice by
10 electronic filing to the Labor Workforce Development Agency ("LWDA") (LWDA Case No. LWDA-
11 CM-777003-20) and by certified mail to Defendant of the specified provisions alleged to have been
12 violated, including the facts and theories to support the alleged violations as required by Labor Code
13 section 2699.3.

14 27. A true and correct copy of Plaintiff Goulet's letter sent to the LWDA and Defendant,
15 dated March 6, 2020, is attached hereto as "**Exhibit A.**" As of the filing of this complaint, LWDA has
16 not responded.

17 28. Under Labor Code Section 2699.3(a), a plaintiff may bring a cause of action under
18 PAGA only after giving notice to the Labor Workforce Development Agency ("LWDA") and the
19 employer of the Labor Code sections alleged to have been violated, and after receiving notice from
20 the LWDA of its intention not to investigate, or after sixty-five (65) days have passed without notice.

21 29. Under Labor Code Section 2699.3(a)(2)(C), "Notwithstanding any other provision of
22 law, a plaintiff may as a matter of right amend an existing complaint to add a cause of action arising
23 under this part at any time within sixty (60) days of the time periods specified in this part."

24 30. More than sixty-five (65) days have passed since Plaintiff submitted notice to the
25 LWDA and Defendants of the specific alleged Labor Code violations and the LWDA has not
26 provided notice to Plaintiff of its intent to investigate such alleged violations. Plaintiff further has
27 received no notice of Defendant's intent to cure any of the alleged violations. Therefore, Plaintiff has
28 satisfied the administrative prerequisites for filing this action.

VI.

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CLASS ALLEGATIONS

31. Plaintiff brings this action on behalf of himself and all other similarly situated persons, as a class action pursuant to California Civil Code of Procedure section 382, on behalf of himself and all other similarly situated persons in the Class, which is composed of and defined as follows:

a. **Class 1: "Failure to Pay All Wages Due to Remuneration"**

All current and former California hourly non-exempt employees who work or worked for Defendant during the Class Period to be determined and who were not paid all wages due to them, including but not limited to minimum and/or overtime wages as a result of Defendant excluding remuneration of "bonus" pay that must be included in all employees' regular rate of pay resulting in failure to pay overtime wages;

b. **Class 2: "Failure to Pay All Wages Due to Unlawful Rounding Policy"**

All current and former California hourly non-exempt employees who work or worked for Defendant during the Class Period to be determined and who were not paid all wages due to them, including but not limited to minimum and/or overtime wages as a result of Defendant requiring Plaintiffs and Plaintiff Class under a "Rounding Policy" that is not fair and neutral and resulted, over a period of time, in failure to compensate non-exempt employees properly for all the time they have actually worked, thereby causing non-exempt employees to work without compensation for regular and overtime wages;

c. **Class 3: "Failure to Pay All Wages Due to Working Through Meal Periods"**

All current and former California hourly non-exempt employees who work or worked for Defendant during the Class Period to be determined and who were not paid all wages due to them, including but not limited to minimum and/or overtime wages as a result of Defendant, excluding time worked during meal periods, resulting in failure to pay overtime wages;

1 d. **Class 4: "Failure to Pay All Wages Due to Time Worked Beyond the Scheduled**
2 **End of a Shift"**

3 All current and former California hourly non-exempt employees who work or worked
4 for Defendant during the Class Period to be determined and who were not paid all
5 wages due to them due to Defendant's failure to pay wages for time worked beyond
6 the scheduled end of their shift without compensation, thereby causing non-exempt
7 employees to work without compensation for regular and overtime wages;

8
9 e. **Class 5: "Failure to Provide Meal Periods"**

10 All current and former California hourly non-exempt employees who work or worked
11 for Defendant during the Class Period to be determined and who were not provided
12 legally compliant meal periods;

13
14 f. **Class 6: "Failure to Provide Rest Breaks"**

15 All current and former California hourly non-exempt employees who work or worked
16 for Defendant during the Class Period to be determined and who did not receive, or
17 were not afforded, or were not authorized or permitted, a rest period of at least ten
18 (10) consecutive minutes for each four (4) hours or major fraction thereof pursuant
19 to California law;

20
21 g. **Class 7: "Waiting Time Class"**

22 All current and former California hourly non-exempt employees who worked for
23 Defendant during the Class Period, who have been terminated or resigned, and have
24 not been paid wages pursuant to Labor Code section 203 and are owed restitution for
25 waiting time penalties deriving from wages;

26
27 h. **Class 8: "Failure to Furnish Accurate Itemized Wage Statements"**
28

1 All current and former California hourly non-exempt employees who work or worked
2 for Defendant during the Class Period to be determined and who were not provided
3 pay stubs that complied with Labor Code section 226;
4

5 i. **Class 9: "Reimbursement Class"**

6 All persons who are employed or have been employed by Defendants in the State of
7 California who were not reimbursed for all necessary business expenditures incurred
8 in performing their job duties.
9

10 j. **Class 10: "UCL Class"**

11 All current and former California hourly non-exempt employees who work or worked
12 for Defendant during the Class Period to be determined and who suffered injury,
13 including lost money, as a result of Defendant's unfair competition, including but not
14 limited to their policy of willfully failing to provide meal and rest periods, failing to
15 compensate for all wages earned, failing to reimburse for job-related necessary
16 expenditures, and failing to provide properly itemized wage statements;
17

18 32. Plaintiffs reserve the right under Rule 3.765, California Rules of Court, to amend or modify the
19 Class description with greater specificity or further division into subclasses or limitation to
20 particular issues.

21 33. This action has been brought and may be maintained as a class action pursuant to Code of Civil
22 Procedure section 382 because there is a well-defined common interest of many persons and it
23 is impractical to bring them all before the Court.

24 34. This Court should permit this action to be maintained as a class action pursuant to California
25 Code of Civil Procedure section 382 because:

- 26 a) The questions of law and fact common to the Plaintiff Class predominate over any
27 question affecting only individual members;
28 b) A class action is superior to any other available method for the fair and efficient
adjudication of the claims of the members of the Plaintiff Class;

- 1 c) The Plaintiff Class is so numerous that it is impractical to bring all members of the
2 Class before the Court;
- 3 d) Plaintiffs and the other members of the Plaintiff Class will not be able to obtain
4 effective and economic legal redress unless the action is maintained as a class action;
- 5 e) There is a community of interest in obtaining appropriate legal and equitable relief
6 for the common law and statutory violations and other improprieties and in obtaining
7 adequate compensation for the damages and injuries which Defendant's actions have
8 inflicted upon the Plaintiff Class;
- 9 f) There is a community of interest in ensuring that the combined assets and available
10 insurance of the Defendant is sufficient to adequately compensate members of the
11 Plaintiff Class for the injuries sustained.
- 12 g) Without class certification, the prosecution of separate actions by individual members
13 of the Plaintiff Class would create a risk of:
- 14 1) Inconsistent or varying adjudications with respect to individual members
15 of the Plaintiff Class which would establish incompatible standard of
16 conduct for the Defendant; and/or
- 17 2) Adjudications with respect to the individual members which would, as a
18 practical matter, be dispositive of the interests of other members not
19 parties to the adjudications, or would substantially impair or impede their
20 ability to protect their interests, including but not limited to the potential
21 for exhausting the funds available from those parties who are, or may be,
22 responsible for Defendant; and
- 23 3) Defendant has acted or refused to act on grounds generally applicable to the
24 Plaintiff Class, thereby making final injunctive relief appropriate with respect
25 to the Class as a whole.

26 **VII.**

27 **FIRST CAUSE OF ACTION**

28 **FAILURE TO PAY MINIMUM WAGE AND OVERTIME WAGES**

(Plaintiffs Goulet and Bell and Plaintiff Class against Defendant Industrial Finishes & Systems, Inc., and Does 1-50 Inclusive)

35. Plaintiffs and Plaintiff Class re-allege and incorporate by reference the allegations in the preceding paragraphs.

36. Plaintiffs and Plaintiff Class members regularly worked over eight (8) hours per day and forty (40) hours per week. Defendant failed to pay Plaintiffs, and Plaintiff Class Members minimum wage for all hours worked and overtime premium for hours worked in excess of over eight (8) hours per day and forty (40) hours per week for work performed for the Defendant. Defendant willfully violated the Labor Code when Defendant failed to pay Plaintiffs and Plaintiff Class the legally mandated wage rates for all hours worked. Instead, Defendant paid Plaintiffs and Plaintiff Class under a "Rounding Policy" that is not fair and neutral and resulted, over a period of time, in failure to compensate the employees properly for all the time they have actually worked, thereby causing Plaintiffs and Plaintiff Class members to work in excess of eight (8) hours per day and/or forty (40) hours per week. As such Plaintiffs and Plaintiff Class seek overtime in an amount according to proof. Pursuant to *Labor Code* § 1194, the Class members seek the payment of all overtime compensation which they earned and accrued four (4) years prior to filing this complaint, according to proof.

37. Defendant has regularly violated the Labor Code with respect to meeting the requirements of paying wages earned, including, overtime, double-time and remuneration when calculating the employees' regular rate of pay, as herein before alleged. Defendant has intentionally excluded remuneration that must be included in all employees' regular rate of pay in order to avoid payment of overtime wages and other benefits in violation of the Labor Code and the order issued by the IWC. Specifically, Defendant failed to include all remuneration paid to Plaintiffs and Plaintiff Class when computing their hourly rates of pay resulting from Defendant's failure to do a weighted average and include all remuneration paid to Plaintiffs and Plaintiff Class for non-discretionary bonus and other types of remuneration, which are not statutory exclusions when calculating Plaintiffs' and Plaintiff Class' regular rate for purposes of overtime payments in violation of Labor Code sections 510 and 1194.

38. During the Class Period, the Defendant and each of them, required Plaintiffs and Plaintiff Class to work through meal periods without compensation for their time due to Defendant's policy of auto-deducting meal periods of thirty (30) minutes to an hour, regardless of whether a thirty (30) minute

1 off duty meal period was taken. Plaintiffs and Plaintiff Class routinely worked during meal periods due
2 to Defendant prioritizing work duties over the taking of breaks periods.

3 39. During the Class Period, the Defendant and each of them, required Plaintiffs to work
4 beyond the scheduled end of their shifts without compensation for their time. Despite Plaintiffs and
5 Plaintiff Class working beyond the scheduled end of their shifts, Plaintiffs and Plaintiff Class were not
6 compensated for their time worked.

7 40. Additionally, Plaintiffs and Plaintiff Class members are entitled to attorneys' fees, costs,
8 pursuant to California *Labor Code* § 1194 and prejudgment interest.

9 **VIII.**

10 **SECOND CAUSE OF ACTION**

11 **Failure to Provide Meal Periods or Compensation in Lieu Thereof**
12 **(Plaintiffs Goulet and Bell, and Plaintiff Class against Defendant Industrial Finishes &**
13 **Systems, Inc., and Does 1-50 Inclusive)**

14 41. The Plaintiffs and Plaintiff Class re-allege and incorporate by reference all the above
15 paragraphs of this complaint as if fully alleged herein.

16 42. Labor Code sections 226.7 and 512 provide that no employer shall employ any person
17 for a work period of more than five (5) hours without providing a meal period of not less than thirty (30)
18 minutes or employ any person for a work period of more than ten (10) hours without a second (2nd) meal
19 period of not less than thirty (30) minutes.

20 43. Labor Code section 226.7 provides that if an employer fails to provide an employee a
21 meal period in accordance with this section, the employer shall pay the employee one (1) hour of pay at
22 the employee's regular rate of compensation for each workday that the meal period is not provided in
23 accordance with this section.

24 44. Defendant failed to schedule Plaintiffs and similarly situated persons in an overlapping
25 manner so as to reasonably ensure that Plaintiffs and Plaintiff Class could take and/or receive such meal
26 periods uninterrupted and within the statutory timeframe. As a result, Plaintiffs and Plaintiff Class were
27 often forced to forego a timely uninterrupted meal period and/or work during their meal period. In so
28 doing, Defendant has intentionally and improperly denied timely uninterrupted meal periods to the
Plaintiffs and Plaintiff Class in violation of Labor Code sections 226.7 and 512 and other regulations

1 and statutes.

2 45. At all times relevant hereto, Plaintiffs and Plaintiff Class have worked more than five (5)
3 hours in a workday.

4 46. At varying times relevant hereto, Plaintiffs and Plaintiff Class have worked more than
5 ten (10) hours in a workday.

6 47. At all times relevant hereto, the Defendant failed to schedule Plaintiffs and similarly
7 situated persons in a manner so as to reasonably provide timely uninterrupted thirty (30) minute meal
8 and/or work free meal period as required by Labor Code sections 226.7 and 512.

9 48. By virtue of the Defendant's failure to schedule Plaintiffs and Plaintiff Class in such a
10 way as to provide a timely and uninterrupted meal period, and/or work-free meal period to the Plaintiffs
11 and Plaintiff Class, thereby causing Plaintiffs and Plaintiff Class to suffer, and will continue to suffer,
12 damages in the amounts which is presently unknown, but which exceed the jurisdictional limits of this
13 Court and which will be ascertained according to proof at trial.

14 49. Plaintiffs individually, and on behalf of the Plaintiff Class, request recovery of meal
15 period compensation pursuant to Labor Code section 226.7 which they are owed beginning four (4)
16 years prior to filing this complaint as well as the assessment of any statutory penalties against the
17 Defendant, and each of them, in a sum as provided by the Labor Code and/or other statutes.

18 **IX.**

19 **THIRD CAUSE OF ACTION**

20 **Failure to Provide Rest Periods or Compensation in Lieu Thereof**

21 **(Plaintiffs Goulet and Bell, and Plaintiff Class against Defendant Industrial Finishes & Systems,**
22 **Inc., and Does 1-50 Inclusive)**

23 50. The Plaintiffs and Plaintiff Class re-allege and incorporate by reference all the above
24 paragraphs of this complaint as if fully alleged herein.

25 51. Labor Code section 226.7 provides that employers authorize and permit all employees to
26 take rest periods at the rate of ten (10) minutes rest time per four (4) work hours or major fraction thereof.

27 52. Labor Code section 226.7(b) provides that, if an employer fails to provide an employee
28 rest period in accordance with this section, the employer shall pay the employee one (1) hour of pay at
the employees' regular rate of compensation for each workday that the rest period is not provided.

53. Defendant failed and or refused to implement a relief system by which Plaintiffs and Plaintiff Class could receive rest breaks and/or work-free rest breaks. Furthermore, due to Defendant's relief system, Plaintiffs and Plaintiff Class did not receive their rest breaks within the required statutory time frame. By and through their actions, Defendant intentionally and improperly denied rest periods to the Plaintiffs and Plaintiff Class in violation of Labor Code sections 226.7 and 512.

54. At all times relevant hereto, the Plaintiffs and Plaintiff Class, have worked more than four (4) hours in a workday.

55. By virtue of the Defendant's unlawful failure to provide rest periods to Plaintiffs and Plaintiff Class as a result of their scheduling and shift relief system, Plaintiffs and Plaintiff Class have suffered, and will continue to suffer, damages in amounts which are presently unknown, but which exceed the jurisdictional limits of this Court and which will be ascertained according to proof at trial.

56. Plaintiffs, individually, and on behalf of employees similarly situated, request recovery of rest period compensation pursuant to Labor Code section 226.7, which they are owed beginning four (4) years prior to filing this complaint as well as the assessment of any statutory penalties against the Defendant, in a sum as provided by the Labor Code and/or any other statute.

X.

FOURTH CAUSE OF ACTION

Failure to Reimburse for Necessary Expenditures

(Plaintiffs Goulet and Bell and Plaintiff Class against Defendant Industrial Finishes & Systems, Inc., and Does 1-50 Inclusive)

57. Plaintiffs and Plaintiff Class re-allege and incorporate by reference the allegations in the preceding paragraphs.

58. California Labor Code §2802, states "An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties...."

59. Plaintiffs and the Plaintiff Class were not reimbursed by Defendant for necessary expenditures as a direct consequence of the discharge of their duties, specifically, Defendant required Plaintiffs and Plaintiff Class to use their personal cell phones to take and send photos to supervisors of products and job assignments in carrying out their job duties.

60. Defendant knowingly, willingly, and intentionally attempted to offset the cost of doing business on the Plaintiffs and Plaintiff Class by failing to reimburse Plaintiffs and Plaintiff Class for the purchase of cell phones and cell phone service providers used in direct consequence of their job duties.

61. Defendant had a corporate practice and policy of requiring Plaintiffs and Plaintiff Class to shoulder the burden of Defendant's cost of doing business by failing to reimburse Plaintiffs and Plaintiff Class for necessary business expenditures as stated herein.

62. Accordingly, Plaintiffs and Plaintiff Class are entitled to an award of “necessary expenditures or losses” in accordance with Cal. Labor Code § 2802, which include attorney’s fees incurred by the employee enforcing the rights granted by this section.

XI.

FIFTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS

(Plaintiffs Goulet and Bell, and Plaintiff Class against Defendant Industrial Finishes & Systems, Inc., and Does 1-50 Inclusive)

63. Plaintiffs and Plaintiff Class re-allege and incorporate by reference the allegations in the preceding paragraphs.

64. Labor Code sections 226, 226.3, 1174 and 1174.5 and applicable IWC Wage Order provides that employers must keep records and provide employees with itemized wage statements showing total hours worked and each applicable rate of pay in effect during the pay period with the corresponding number of hours worked at each hourly rate.

65. Labor Code section 226, subdivision (a), requires an employer provide employees- either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash-an accurate itemized wage statement in writing showing: "(1) gross wages earned, (2) total hours worked by the employee, (4) all deductions, (5) net wages, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity

1 that is the employer, and (9) all applicable hourly rates in effect during the pay period and
2 corresponding number of hours worked at each hourly rate by the employee."

3 66. Labor Code section 226.2, subdivision (a)(2), requires the itemized statements required
4 by subdivision (a) of section 226 shall, in addition to the other items specified in that subdivision,
5 state the following: total hours of compensable rest and recovery periods, the rate of compensation,
6 and the gross wages paid for those periods during the pay period.

7 67. Defendant willfully violated Labor Code section 226(a) by failing to provide Plaintiffs
8 and Plaintiff Class with wage statements that accurately reflect the total hours worked, and the rate of
9 pay for each hour worked, and net and gross wages earned.

10 68. Lab. Code, § 226, subdivision (a) states that, "every employer shall, semimonthly or at
11 the time of each payment of wages, furnish each of his or her employees, either as a detachable part of
12 the check, draft, or voucher paying the employee's wages, or separately when wages are paid by
13 personal check or cash, an accurate itemized statement in writing ..."

14 69. IWC Wage Order Number 7-2001, paragraph 7(a) requires that every employer shall
15 keep accurate information with respect to each employee, including time records showing when each
16 employee begins and ends each work period, the total daily hours worked by each employee and the
17 total hours worked in each payroll period, applicable rates of pay, and net and gross wages earned.

18 70. Plaintiffs are informed and believe that Defendant willfully and intentionally failed to
19 make and/or keep records which accurately reflect the hours worked by Plaintiffs and Plaintiff Class.
20 Specifically, Plaintiffs believe that Defendant's records do not accurately reflect the start and end times
21 that Plaintiffs and Plaintiff Class were required to work due to Defendant's "Rounding Policy" that is
22 not fair and neutral and resulted, over a period of time, in failure to compensate the employees properly
23 for all the time they have actually worked.

24 71. Plaintiffs are informed and believe that Defendant willfully and intentionally failed to
25 make and/or keep records which accurately reflect the wages earned by Plaintiffs and Plaintiff Class
26 who were not paid all wages due them, including but not limited to minimum and/or overtime wages
27 as a result of Defendant excluding remuneration of "bonus" pay that must be included in all employees'
28 regular rate of pay resulting in failure to pay overtime wages

72. Plaintiffs are informed and believe that Defendant's failure to keep accurate payroll records, as described above, violated Lab. Code, § 1174, subdivision (d) and the applicable wage order. Plaintiffs and the Plaintiff Class are entitled to penalties of one hundred dollars (\$100.00) for the initial violation and two hundred dollars (\$200.00) for each subsequent violation for every pay period during which these records and information was not kept by Defendant.

73. An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with Lab. Code, § 1174, subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000) and is entitled to an award of costs and reasonable attorney's fees.

74. Plaintiffs are informed and believe that Defendant's failure to keep and maintain accurate records and information, as described above, were willful, and Plaintiffs and Plaintiff Class are entitled to a statutory penalty of five hundred dollars (\$500.00) for Plaintiffs and each member of Plaintiff Class pursuant to Lab. Code, § 1174.5.

XII.

SIXTH CAUSE OF ACTION

FAILURE TO PAY WAGES UPON ENDING EMPLOYMENT

(Plaintiffs Bell and Goulet and Plaintiff Class against Defendant Industrial Finishes & Systems, Inc., and Does 1-50 Inclusive)

75. Plaintiffs and Plaintiff Class re-allege and incorporate by reference, as though fully set forth herein, the above paragraphs in their entirety as if fully alleged herein.

76. Plaintiffs and certain members of the Plaintiff Class who ended their employment with Defendant during the Class Period, were entitled to be promptly paid both minimum wage and lawful overtime compensation and other premiums, as required by *Labor Code* §§ 201-203. Defendant refused and/or failed to promptly compensate Plaintiffs and Plaintiff Class wages owed as a result of their failure to pay Plaintiffs and Plaintiff Class both minimum wage, overtime, and premium compensations.

Pursuant to *Labor Code* § 203, such Plaintiffs and Plaintiff Class seek the payment of penalties pursuant to *Labor Code* § 203, according to proof.

XIII.

SEVENTH CAUSE OF ACTION

UNFAIR COMPETITION LAW

(Plaintiffs Goulet and Bell and Plaintiff Class against Defendant Industrial Finishes & Systems, Inc., and Does 1-50 Inclusive)

77. Plaintiffs and Plaintiff Class re-allege and incorporate by reference, as though fully set forth herein, the above paragraphs in their entirety.

78. *California Business and Professions Code* § 17200 et. seq. (also referred to herein as the "Unfair Business Practices Act" or "Unfair Competition Law") prohibit unfair competition in the form of any unlawful, unfair, or fraudulent business act or practice.

79. *California Business and Professions Code* § 17204 allows "any person who has suffered injury in fact and has lost money or property as a result of such unfair competition" to prosecute a civil action for violation of the Unfair Competition Law ("UCL").

80. *Labor Code* § 90.5(a) states that it is the public policy of California to vigorously enforce minimum labor standards in order to ensure employees are not required to work under substandard and unlawful conditions, and to protect employers who comply with the law from those who attempt to gain competitive advantage at the expense of their workers by failing to comply with minimum labor standards.

81. Beginning at an exact date unknown to Plaintiffs, but at least four (4) years prior to the filing of this lawsuit, Defendant has committed acts of unfair competition as defined by the Unfair Business Practices Act, by engaging in the unlawful, unfair, and fraudulent business practices and acts described in this Complaint including but not limited to violations of *Labor Code* §§ 510, 226.7, 226, 2802, 1194, 1197, 1198 as well as other statutes.

82. The violations of these laws and regulations, as well as of the fundamental California public policies protecting workers, serve as unlawful predicate acts and practices for purposes of *Business and Professions Code* § 17200 et. seq.

1 83. The acts and practices described above constitute unfair, unlawful, and fraudulent
2 Business Practices, and unfair competition, within the meaning of *Business and Professions Code* §
3 17200 et. seq. Among other things, the acts and practices have forced Plaintiffs and other similarly
4 situated employees to labor for many hours without receiving the both minim wage and overtime
5 compensation, to forgo lawful meal and rest periods, or compensation in lieu thereof, and to forgo
6 reimbursement of necessary business expenditures, to which they are entitled by law, while enabling
7 Defendant to gain an unfair competitive advantage over law-abiding employers and competitors.

8 84. As a result of Defendant's acts, Plaintiffs and Plaintiff Class have suffered injury in fact
9 in being denied their statutorily entitled full compensation for hours of labor and not indemnified for
10 necessary business-related expenses. As a direct and proximate result of Defendant's unlawful acts of
11 unfair competition, Plaintiffs and Plaintiff Class have lost money and property in the form of a loss of
12 wages in an amount to be proven at trial.

13 85. *Business and Professions Code* § 17203 provides that a court may make such orders or
14 judgments as may be necessary to prevent the use or employment by any person of any practice which
15 constitutes unfair competition.

16 86. *Business and Professions Code* § 17203 provides that the Court may restore to any person
17 in interest any money or property that may have been acquired by means of such unfair competition.
18 Plaintiffs and Plaintiff Class are entitled to restitution pursuant to *Business and Professions Code* §
19 17203 for all wages and payments unlawfully withheld from employees, including the cost of necessary
20 job-related expenses not reimbursed, during the four-year period prior to the filing of this Complaint.

21 87. *Business and Professions Code* §17202 provides, "Notwithstanding section 3369 of the
22 *Civil Code*, specific or preventative relief may be granted to enforce a penalty, forfeiture, or penal law
23 in a case of unfair competition." Plaintiffs and Plaintiff Class are entitled to enforce all applicable
24 penalty provisions of the *Labor Code* pursuant to *Business and Professions Code* § 17202.

25 88. Plaintiffs' success in this action will enforce important rights affecting public interest,
26 and in that regard, Plaintiffs sue on behalf of the general public, as well as himself and other similarly
27 situated employees. Plaintiffs and Plaintiff Class seek and are entitled to restitution, civil penalties,
28 declaratory relief, and all other equitable remedies owing them.

89. Plaintiff herein takes upon himself enforcement of these laws and lawful claims. There is a financial burden involved in pursuing this action; the action is seeking to vindicate a public right, and it would be against the interests of justice to penalize Plaintiff by forcing him to pay attorney's fees from the recovery in this action. Attorney's fees are appropriate pursuant to *Code of Civil Procedure* § 1021.5 and otherwise.

XIV.

EIGHTH CAUSE OF ACTION

VIOLATION OF THE PRIVATE ATTORNEYS' GENERAL ACT ("PAGA")

(LABOR CODE § 2698 ET SEQ.)

(Plaintiff Goulet and Aggrieved Employees against Defendant, and Does 1 – 50 inclusive)

90. Since the LWDA has not indicated that it will be investigating, and more than sixty-five (65) days have passed since Plaintiff Goulet mailed his letter, and because Defendants took no corrective action to remedy the allegations set forth herein, Plaintiff Goulet, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission, the LWDA and/or the Department of Labor Standards Enforcement (“DLSE”). This includes each of the following, as set forth in Labor Code section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the provisions discussed herein.

91. Plaintiff Goulet, by virtue of his employment with Defendants is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in Labor Code section 2699.5.

92. Plaintiff is informed and believes that Defendant has violated and continues to violate provisions of the California Labor Code and applicable Wage orders related to the payment of minimum wages including overtime, failure to provide meal and rest periods or premium compensation in lieu thereof, failure to pay all wages upon end of employment, failure to provide complaint wage statements, and failure to reimburse for necessary expenditures.

93. Plaintiff, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission, the LWDA and/or the DLSE. This includes each of the following, as set forth in Labor Code section 2699.5, which provides that

1 section 2699.3(a) applies to any alleged violation of the following provisions: 201-203, 226, 226.7, 510,
2 512, 1174, 2802, and 1194.

3 94. Plaintiff, as a personal representative of the general public, will and does seek to recover
4 any and all penalties for each and every violation shown to exist or to have occurred during the Liability
5 period, in an amount according to proof, as to those penalties that are otherwise only available to public
6 agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA, with at
7 least 75% of the penalties recovered being reimbursed to the LWDA.

8 95. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and costs
9 pursuant to Labor Code sections 2699(g)(1), 218.5, 1194, and prejudgment interest.

10 **a. Violation of PAGA for Failure to Pay Minimum and Overtime Wages.**

11 96. Plaintiff and Aggrieved Employees re-allege and incorporate by reference the allegations
12 in the preceding paragraphs.

13 97. Plaintiff and Aggrieved Employees members regularly worked over eight (8) hours per
14 day and forty (40) hours per week. Defendants failed to pay Plaintiff, and Aggrieved Employees
15 members minimum wage for all hours worked and overtime premium for hours worked in excess of
16 over eight (8) hours per day and forty (40) hours per week for work performed for the Defendant.
17 Defendant willfully violated the Labor Code when Defendant failed to pay Plaintiff and Aggrieved
18 Employees the legally mandated wage rates for all hours worked. Instead, Defendant paid Plaintiff and
19 Aggrieved Employees under a "Rounding Policy" that is not fair and neutral and resulted, over a period
20 of time, in failure to compensate the employees properly for all the time they have actually worked,
21 thereby causing Plaintiff and Aggrieved Employees members to work in excess of eight (8) hours per
22 day and/or forty (40) hours per week.

23 98. Further, Employer failed to include all remuneration paid to Employee and his
24 coworkers when computing their hourly non-exempt employees' regular rate of pay resulting from
25 Employer's failure to do a weighted average and include all remuneration paid to hourly non-
26 exempt employees for non-discretionary bonus, shift differential premium, and other types of
27 remuneration, which are not statutory exclusions when calculating hourly non-exempt employees'
28 regular rate for purposes of overtime payments. Employer's conduct, which is in violation
of Labor Code sections 510 and 1194, is actionable under PAGA.

1 99. Plaintiff individually, and on behalf of the Aggrieved Employees, requests recovery of
2 statutory penalties against the Defendants and each of them, pursuant to PAGA for failure to pay all
3 wages pursuant to Labor Code sections 510 and 1194 during the PAGA Liability Period, in a sum as
4 provided by the Labor Code and/or other statutes.

5 **b. Violation of PAGA for Failure to Provide Meal Periods or Compensation in Lieu**
6 **Thereof.**

7 100. The Plaintiff and Aggrieved Employees re-allege and incorporate by reference all
8 the above paragraphs of this complaint as if fully alleged herein.

9 101. Labor Code sections 226.7 and 512 provide that no employer shall employ any
10 person for a work period of more than five (5) hours without providing a meal period of no less than
11 thirty (30) minutes or employ any person for a work period of more than ten (10) hours without a second
12 (2nd) meal period of no less than thirty (30) minutes.

13 102. Labor Code section 226.7 provides that, if an employer fails to provide an
14 employee a meal period in accordance with this section, the employer shall pay the employee one (1)
15 hour of pay at the employee's regular rate of compensation for each workday that the meal period is
16 not provided in accordance with this section.

17 103. Defendant failed to schedule Plaintiff and similarly situated persons in an
18 overlapping manner so as to reasonably ensure that Plaintiff and Aggrieved Employees could take
19 and/or receive such meal periods uninterrupted and within the statutory timeframe. As a result, Plaintiff
20 and Aggrieved Employees were often forced to forego a timely uninterrupted meal period and/or work
21 during their meal period. In so doing, Defendant has intentionally and improperly denied timely
22 uninterrupted meal periods to the Plaintiff and Aggrieved Employees in violation of Labor Code
23 sections 226.7 and 512 and other regulations and statutes.

24 104. At all times relevant hereto, Plaintiff and Aggrieved Employees have worked
25 more than five (5) hours in a workday.

26 105. At varying times relevant hereto, Plaintiff and Aggrieved Employees have
27 worked more than ten (10) hours in a workday.

28 106. At all times relevant hereto, the Defendant failed to schedule Plaintiff and
similarly situated persons in a manner so as to reasonably provide timely uninterrupted thirty (30)

minute meal and/or work free meal period as required by Labor Code sections 226.7 and 512.

107. By virtue of the Defendant's failure to schedule Plaintiff and Aggrieved Employees in such a way as to provide a timely and uninterrupted meal period, and/or work free meal period to the Plaintiff and Aggrieved Employees, thereby causing Plaintiff and Aggrieved Employees to suffer, and will continue to suffer, damages in the amounts which are presently unknown, but which exceed the jurisdictional limits of this Court and which will be ascertained according to proof at trial.

108. Plaintiff individually, and on behalf of the Aggrieved Employees, requests recovery of statutory penalties against the Defendants and each of them, pursuant to PAGA for failure to provide meal period compensation pursuant to Labor Code sections 226.7 and 512 during the PAGA Liability Period, in a sum as provided by the Labor Code and/or other statutes.

c. Violation of PAGA for Failure to Provide Rest Periods or Compensation in Lieu Thereof.

109. The Plaintiff and Aggrieved Employees re-allege and incorporate by reference all the above paragraphs of this complaint as if fully alleged herein.

110. Labor Code section 226.7 provides that employers authorize and permit all employees to take rest periods at the rate of ten (10) minutes rest time per four (4) work hours or major fraction thereof.

111. Labor Code section 226.7(b) provides that, if an employer fails to provide and employee rest periods in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employees' regular rate of compensation for each workday that the rest period is not provided.

112. Defendant failed and or refused to implement a relief system by which Plaintiff and Aggrieved Employees could receive rest breaks and/or work free rest breaks. Furthermore, due to Defendant's relief system, Plaintiff and Aggrieved Employees did not receive their rest breaks within the required statutory time frame. By and through their actions, Defendant intentionally and improperly denied rest periods to the Plaintiff and Aggrieved Employees in violation of Labor Code sections 226.7 and 512.

113. At all times relevant hereto, the Plaintiff and Aggrieved Employees, have worked more than four (4) hours in a workday.

1 114. By virtue of the Defendant's unlawful failure to provide rest periods to Plaintiff
2 and Aggrieved Employees as a result of their scheduling and shift relief system, Plaintiff and Aggrieved
3 Employees have suffered, and will continue to suffer, damages in amounts which are presently
4 unknown, but which exceed the jurisdictional limits of this Court and which will be ascertained
5 according to proof at trial.

6 115. Plaintiff individually, and on behalf of the Aggrieved Employees, requests
7 recovery of statutory penalties against the Defendants and each of them, pursuant to PAGA for failure
8 to provide rest period compensation pursuant to Labor Code section 226.7 during the PAGA Liability
9 Period, in a sum as provided by the Labor Code and/or other statutes.

10 **d. Violation of PAGA for Failure to Provide Accurate Wage Statements.**

11 116. Plaintiff and Aggrieved Employees re-allege and incorporate by reference the
12 allegations in the preceding paragraphs.

13 117. Labor Code sections 226, 226.3, 1174 and 1174.5 and applicable IWC Wage
14 Order provides that employers must keep records and provide employees with itemized wage
15 statements showing total hours worked and each applicable rate of pay in effect during the pay period
16 with the corresponding number of hours worked at each hourly rate.

17 118. Labor Code section 226, subdivision (a), requires an employer provide
18 employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or
19 separately when wages are paid by personal check or cash, an accurate itemized wage statement in
20 writing showing: "(1) gross wages earned, (2) total hours worked by the employee, (4) all deductions,
21 (5) net wages, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
22 employee and only the last four digits of his or her social security number or an employee identification
23 number other than a social security number, (8) the name and address of the legal entity that is the
24 employer, and (9) all applicable hourly rates in effect during the pay period and corresponding number
25 of hours worked at each hourly rate by the employee."

26 119. Labor Code section 226.2, subdivision (a)(2), requires the itemized statements
27 required by subdivision (a) of section 226 shall, in addition to the other items specified in that
28 subdivision, state the following: total hours of compensable rest and recovery periods, the rate of

1 compensation for every hour worked, the number of hours worked at each rate of compensation, the
2 gross and net wages paid for those periods during the pay period, and the true name of the employer.

3 120. Defendant willfully violated Labor Code section 226(a) by failing to provide
4 Plaintiff and Aggrieved Employees with wage statements that accurately reflect the total hours worked,
5 the accurate rate of pay for each hour worked, accurate premium wages earned, accurate net and gross
6 wages earned, and failed to list Employer's address and instead listed a P.O. Box address.

7 121. Lab. Code, § 226, subdivision (a) states that, "every employer shall, semi-
8 monthly or at the time of each payment of wages, furnish each of his or her employees, either as a
9 detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages
10 are paid by personal check or cash, an accurate itemized statement in writing ..."

11 122. IWC Wage Order Number 5-2001, paragraph 7(a) requires that every employer
12 shall keep accurate information with respect to each employee, including time records showing when
13 each employee begins and ends each work period, the total daily hours worked by each employee and
14 the total hours worked in each payroll period, applicable rates of pay, and net and gross wages earned.

15 123. Plaintiff is informed and believes that Defendant willfully and intentionally failed
16 to make and/or keep records which accurately reflect the hours worked by Plaintiff and Aggrieved
17 Employees. Specifically, Plaintiff believes that Defendant's records do not accurately reflect the start
18 and end times Plaintiff and Aggrieved Employees were required to work due to Defendant's "Rounding
19 Policy" that is not fair and neutral and resulted, over a period of time, in failure to compensate the
20 employees properly for all the time they have actually worked.

21 124. Plaintiff is informed, and believes that Defendant willfully and intentionally
22 failed to make and/or keep records which accurately reflect the accurate net and gross wages earned by
23 Plaintiff and Aggrieved Employees who were not paid all wages due them, including but not limited to
24 minimum and/or overtime wages as a result of Defendant's non-neutral rounding policy and failure to
25 pay premium compensation. Further, Defendant failed to list the accurate legal address that is the
26 employer on wage statements provided to Plaintiff and Aggrieved Employees.
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1 125. Plaintiff is informed and believes that Defendant's failure to keep accurate payroll
2 records, as described above, violated Lab. Code, § 1174, subdivision (d) and the applicable wage order.

3 126. Plaintiff individually, and on behalf of the Aggrieved Employees, requests
4 recovery of statutory penalties against the Defendant and each of them, pursuant to PAGA for failure
5 to provide accurate itemized wage statements pursuant to Labor Code sections 226 and 226.2 during
6 the PAGA Liability Period, in a sum as provided by the Labor Code and/or other statutes.

7 **e. Violation of PAGA for Failure to Pay Wages Upon Ending Employment.**

8 127. Plaintiff and Aggrieved Employees re-allege and incorporate by reference, as
9 though fully set forth herein, the above paragraphs in their entirety as if fully alleged herein.

10 128. Plaintiff and certain members of the Aggrieved Employees who ended their
11 employment with Defendant during the Liability Period, were entitled to be promptly paid both
12 minimum wage and lawful overtime compensation and other premiums, as required by *Labor Code* §§
13 201-203. Defendant refused and/or failed to promptly compensate Plaintiff and Aggrieved Employees
14 wages owed as a result of their failure to pay Plaintiff and Aggrieved Employees both minimum wage,
15 overtime, and premium compensations.

16 129. Plaintiff individually, and on behalf of the Aggrieved Employees, requests
17 recovery of statutory penalties against the Defendant and each of them, pursuant to PAGA for failure
18 to pay wages due upon end of employment pursuant to Labor Code sections 201 - 203 during the
19 Liability Period, in a sum as provided by the Labor Code and/or other statutes.

20 **f. Violation of PAGA for Failure to Reimburse for Necessary Expenditures**

21 130. Plaintiff and Aggrieved Employees re-allege and incorporate by reference, as
22 though fully set forth herein, the above paragraphs in their entirety as if fully alleged herein.

23 131. Plaintiff and certain members of the Aggrieved Employees who were not
24 reimbursed for all necessary expenditures or losses incurred by the employee in direct consequence of
25 the discharge of his or her duties as required by *Labor Code* § 2802. Defendant refused and/or failed to
26 reimburse Plaintiff and similarly Aggrieved Employees for use of their personal cell phones in carrying
27 out their job duties. Defendant required Plaintiff and similarly Aggrieved Employee to use their personal
28 cell phones to take and send pictures of products or assignments, and to communicate with Employer
and Employer's customers pertaining to the products or assignments.

132. Plaintiff individually, and on behalf of the Aggrieved Employees, requests recovery of statutory penalties against the Defendant and each of them, pursuant to PAGA for failure to reimburse for necessary job expenditures pursuant to Labor Code section 2802 during the PAGA Liability Period, in a sum as provided by the Labor Code and/or other statutes.

XIV.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and Plaintiff Class pray for judgment as follows:

1. For nominal damages;
2. For compensatory damages;
3. For restitution of all monies due to Plaintiffs and Plaintiff Class, and disgorged profits from the unlawful business practices of Defendant;
4. For waiting time penalties pursuant to *Labor Code* § 203, on behalf of the terminated or resigned employees;
5. For penalties pursuant to *Labor Code* §§ 226, 226(e), 2802, 512, 1194, and 2699 et. seq.;
6. For interest accrued to date;
7. Declaratory relief, enjoining Defendant's practices as being unlawful and unfair business practices within the meaning of *Bus. & Prof. Code* §§ 17200, et seq., and declaring Defendant has unlawfully treated Plaintiffs and Plaintiff Class, failed to pay all wages, premium, regular, and overtime compensation in violation of California law, failed to pay wages to former employees Plaintiffs and other certain members of Plaintiff Class, failed to provide Plaintiffs and Plaintiff Class accurate itemized wage statements upon payment of wages, failed to reimburse for necessary job related expenditures, and declaring the amounts of damages, penalties, equitable relief, costs, and attorney's fees Plaintiffs and Plaintiff Class are entitled to;
8. For costs of suit and expenses incurred herein pursuant to Code of Civil Procedure § 1021.5, *Labor Code* §§ 226, 2802, 1194, and 2699(g);
9. For reasonable attorneys' fees pursuant to Code of Civil Procedure § 1021.5, *Labor Code* §§ 226, 2802, 1194, and 2699(g); and;

1 10. For all such other and further relief as the Court may deem just and proper.
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6 Dated: November 5, 2020

LAW OFFICES OF JAKE D. FINKEL

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Jake D. Finkel, Esq.
Alexander Perez, Esq.
Sheryl L. Marx, Esq.
Attorneys for Plaintiffs CHARLES GOULET
and STACEY BELL, and on behalf of all employees
similarly situated
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DEMAND FOR JURY TRIAL

Plaintiffs CHARLES GOULET and STACEY BELL hereby requests a jury trial on all issues so triable.

Dated: November 5, 2020

LAW OFFICES OF JAKE D. FINKEL, APC



Jake D. Finkel, Esq.
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Sheryl L. Marx, Esq.
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