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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

ERNESTO ALVIDREZ, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

SUPREME HR SERVICES, LLC, a California
limited liability company,

Defendant.

Case No. 30-2020-01133754-CU-OE-CXC

CLASS ACTION

*[Assigned for All Purposes to Hon. William
Claster, Dept. CX 104]*

**PLAINTIFF'S SECOND AMENDED
CLASS AND REPRESENTATIVE
ACTION COMPLAINT FOR DAMAGES:**

1. Failure to Pay Minimum and Straight Time Wages (Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197);
2. Failure to Pay Overtime Wages (Cal. Lab. Code §§ 1194 and 1198);
3. Failure to Provide Meal Periods (Cal. Lab. Code §§ 226.7, 512);
4. Failure to Authorize and Permit Rest Periods (Cal. Lab. Code §§ 226.7);
5. Failure to Timely Pay Final Wages at Termination (Cal. Lab. Code §§ 201-203);
6. Failure to Provide Accurate Itemized Wage Statements (Cal. Lab. Code § 226);
7. Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200, *et seq.*); and
8. Civil Penalties Under PAGA (Cal. Lab. Code § 2699, *et seq.*)

DEMAND FOR JURY TRIAL

Plaintiff Ernesto Alvidrez (“Plaintiff”), based upon facts that either have evidentiary support or are likely to have evidentiary support after a reasonable opportunity for further investigation and discovery, alleges as follows:

INTRODUCTION & PRELIMINARY STATEMENT

1. Plaintiff brings this action against Defendant Supreme HR Services, LLC (“Defendant”) for California Labor Code violations and unfair business practices stemming from Defendant’s failure to pay for all hours worked (minimum, straight time, and overtime wages), failure to provide meal periods, failure to authorize and permit rest periods, failure to timely pay final wages, and failure to furnish accurate wage statements.

2. Plaintiff brings the First through Seventh Causes of Action individually and as a class action on behalf of himself and certain current and former employees of Defendant (hereinafter collectively referred to as the “Class” or “Class Members,” and defined more fully below). The Class consists of Plaintiff and all other persons who have been employed by any Defendant in California as an hourly-paid or non-exempt employee during the statute of limitations period applicable to the claims pleaded here.

3. Plaintiff brings the Eighth Cause of Action as a representative action under the California Private Attorneys General Act (“PAGA”) to recover civil penalties that are owed to Plaintiff, the State of California, and past and present non-exempt employees by Defendants in the State of California during the statute of limitations period for his PAGA claim (hereinafter referred to as the “Aggrieved Employees”).

4. Defendant own/owned and operate/operated an industry, business, and establishment within the State of California, including Orange County. As such, and based upon all the facts and circumstances incident to Defendant’s business in California, Defendant is subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission (“IWC”), and the California Business & Professions Code.

5. Despite these requirements, throughout the statutory period Defendant maintained a systematic, company-wide policy and practice of:

(a) Failing to pay employees for all hours worked, including all minimum

wages, straight time wages, and overtime wages in compliance with the California Labor Code and IWC Wage Orders;

- (b) Failing to provide employees with timely and duty-free meal periods in compliance with the California Labor Code and IWC Wage Orders, failing to maintain accurate records of all meal periods taken or missed, and failing to pay an additional hour's pay for each workday a meal period violation occurred;
- (c) Failing to authorize and permit employees to take timely and duty-free rest periods in compliance with the California Labor Code and IWC Wage Orders, and failing to pay an additional hour's pay for each workday a rest period violation occurred;
- (d) Willfully failing to pay employees all minimum wages, straight time wages, overtime wages, meal period premium wages, and rest period premium wages due within the time period specified by California law when employment terminates; and
- (e) Failing to provide employees with accurate, itemized wage statements containing all the information required by the California Labor Code and IWC Wage Orders.

6. On information and belief, Defendant was on actual and constructive notice of the improprieties alleged herein and intentionally refused to rectify their unlawful policies. Defendant's violations, as alleged above, during all relevant times herein were willful and deliberate.

7. At all relevant times, Defendant was and is legally responsible for all of the unlawful conduct, policies, practices, acts and omissions as described in each and all of the foregoing paragraphs as the employer of Plaintiff, the Class, and the Aggrieved Employees. Further, Defendant is responsible for each of the unlawful acts or omissions complained of herein under the doctrine of "respondeat superior."

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THE PARTIES

A. Plaintiff

8. Plaintiff Ernesto Alvidrez is a resident of Santa Fe Springs, California who worked for Defendant in Anaheim, California as a Reach Driver from approximately March 2019 to July 19, 2019.

9. Plaintiff reserves the right to seek leave to amend this complaint to add new plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La Sala v. American Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

B. Defendant

10. Plaintiff is informed and believes, and based upon that information and belief alleges, that Defendant Supreme HR Services, LLC is, and at all times herein mentioned, was:

- (a) A California corporation with its principal place of business in Villa Park, CA.
- (b) A business entity conducting business in numerous counties throughout the State of California, including in Orange County; and,
- (c) The former employer of Plaintiff, the current and/or former employer of the putative Class, and the current and/or former employers of the Aggrieved Employees, because Defendant Supreme HR Services, LLC, suffered and permitted Plaintiff, the Class, and the Aggrieved Employees to work, and/or controlled their wages, hours, or working conditions.

11. Plaintiff is informed and believes and thereon alleges that at all relevant times each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and the other employees described in the class definitions below, and the Aggrieved Employees, and exercised control over their wages, hours, and working conditions.

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

12. Plaintiff worked for Defendant in California as a reach driver from approximately March 2019 to July 2019. During Plaintiff's employment for Defendant, Defendant paid Plaintiff an hourly wage and classified him as non-exempt from overtime. Defendant typically

1 scheduled Plaintiff to work at least 5 days in a workweek and at least 10 hours per day, but
2 Plaintiff often worked more than 8 hours in a workday and more than 40 hours in a workweek.

3 13. Throughout Plaintiff's employment, Defendant failed to pay Plaintiff for all hours
4 worked (including minimum wage, straight time, and overtime wages), failed to provide Plaintiff
5 with meal periods, failed to authorize and permit Plaintiff to take rest periods, failed to timely
6 pay all final wages to Plaintiff when Defendant terminated his employment, and failed to furnish
7 accurate wage statements to Plaintiff. As discussed below, Plaintiff's experience working for
8 Defendant was typical and illustrative.

9 14. Throughout the statutory period, Defendant maintained a policy and practice of
10 not paying Plaintiff, the Class, and the Aggrieved Employees for all hours worked, including
11 minimum wages, straight time wages, and overtime wages. Plaintiff, the Class, and the
12 Aggrieved Employees regularly worked long hours throughout the pay period, only to find that
13 several of those hours were unaccounted for in their paychecks. Some of this unpaid work also
14 should have been paid at the overtime rate. Accordingly, Defendants frequently paid Plaintiff,
15 the Class, and the Aggrieved Employees less than all their work time. In failing to pay for all
16 hours worked, Defendant also failed to maintain accurate records of the hours Plaintiff, the Class,
17 and the Aggrieved Employees worked.

18 15. Throughout the statutory period, Defendant wrongfully failed to provide Plaintiff,
19 the Class, and the Aggrieved Employees with legally compliant meal periods. Defendant
20 regularly, but not always, required Plaintiff, the Class, and the Aggrieved Employees to work in
21 excess of five consecutive hours a day without providing a 30-minute, uninterrupted, and duty-
22 free meal period for every five hours of work, or without compensating Plaintiff, the Class, and
23 the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of
24 work or tenth hour of work. Instead, Defendant continued to assert control over Plaintiff, the
25 Class, and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform
26 work tasks which could not be completed without working in lieu of taking mandatory meal
27 periods, or by denying Plaintiff, the Class, and the Aggrieved Employees permission to take a
28 meal period. Accordingly, Defendant's policy and practice was not to provide meal periods to

1 Plaintiff, the Class, and the Aggrieved Employees in compliance with California law.

2 16. Throughout the statutory period, Defendant has wrongfully failed to authorize and
3 permit Plaintiff, the Class, and the Aggrieved Employees to take legally compliant rest periods.
4 Defendant regularly required Plaintiff, the Class, and the Aggrieved Employees to work in excess
5 of four consecutive hours a day without Defendant authorizing and permitting them to take a 10-
6 minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of
7 four hours), or without compensating Plaintiff, the Class, and the Aggrieved Employees for rest
8 periods that were not authorized or permitted. Instead, Defendant continued to assert control
9 over Plaintiff, the Class, and the Aggrieved Employees by requiring, pressuring, or encouraging
10 them to perform work tasks which could not be completed without working in lieu of taking
11 mandatory rest periods, or by denying Plaintiff, the Class, and the Aggrieved Employees
12 permission to take a rest period. Accordingly, Defendant's policy and practice was to not
13 authorize and permit Plaintiff, the Class, and the Aggrieved Employees to take rest periods in
14 compliance with California law.

15 17. Throughout the statutory period, Defendant willfully failed and refused to timely
16 pay Plaintiff, the Class, and the Aggrieved Employees at the conclusion of their employment all
17 final wages due at their termination of employment. In addition, Plaintiff's final paycheck did
18 not include payment for all wages (minimum, straight time, and overtime wages), meal period
19 premium wages, and rest period premium wages owed to him by Defendant at the conclusion of
20 his employment. On information and belief, Defendant's failure to timely pay Plaintiff's final
21 wages when his employment terminated was not a single, isolated incident, but was instead
22 consistent with Defendant's policy and practice that applied to Plaintiff, the Class, and the
23 Aggrieved Employees.

24 18. Throughout the statutory period, Defendant failed to furnish Plaintiff, the Class,
25 and the Aggrieved Employees with accurate, itemized wage statements showing all applicable
26 hourly rates, and all gross and net wages earned (including correct hours worked, correct wages
27 for meal periods that were not provided in accordance with California law, and correct wages for
28 rest periods that were not authorized and permitted to take in accordance with California law).

As a result of these violations of California Labor Code § 226(a), the Plaintiff, the Class, and the Aggrieved Employees suffered injury because, among other things:

- (a) the violations led them to believe that they were not entitled to be paid minimum wages, straight time wages, overtime wages, meal period premium wages, and rest period premium wages, even though they were entitled;
- (b) the violations led them to believe that they had been paid the minimum, straight time, overtime, meal period premium, and rest period premium wages, even though they had not been;
- (c) the violations led them to believe they were not entitled to be paid minimum, straight time, overtime, meal period premium, and rest period premium wages at the correct California rate even though they were;
- (d) the violations led them to believe they had been paid minimum, straight time, overtime, meal period premium, and rest period premium wages at the correct California rate even though they had not been;
- (e) the violations hindered them from determining the amounts of minimum, straight time, overtime, meal period premium, and rest period premium wages owed to them;
- (f) in connection with their employment before and during this action, and in connection with prosecuting this action, the violations caused them to have to perform mathematical computations to determine the amounts of wages owed to them, computations they would not have to make if the wage statements contained the required accurate information;
- (g) by understating the wages truly due them, the violations caused them to lose entitlement and/or accrual of the full amount of Social Security, disability, unemployment, and other governmental benefits;
- (h) the wage statements inaccurately understated the wages, hours, and wage rates to which Plaintiff, the Class, and the Aggrieved Employees were

entitled, and Plaintiff, the Class, and the Aggrieved Employees were paid less than the wages and wage rates to which they were entitled.

Thus, Plaintiff, the Class, and the Aggrieved Employees are owed the amounts provided for in California Labor Code § 226(e).

CLASS ACTION ALLEGATIONS

19. Plaintiff brings certain claims individually, as well as on behalf of each and all other persons similarly situated, and thus, seeks class certification under California Code of Civil Procedure § 382.

20. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law.

21. The proposed Class consists of and is defined as:

All persons who worked for any Defendant in California as an hourly-paid or non-exempt employee at any time during the period beginning four years before the filing of the initial complaint in this action and ending when notice to the Class is sent.

22. At all material times, Plaintiff was a member of the Class.

23. Plaintiff undertakes this concerted activity to improve the wages and working conditions of all Class Members.

24. There is a well-defined community of interest in the litigation and the Class are readily ascertainable:

(a) Numerosity: The members of the Class (and each subclass, if any) are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire Class is unknown to Plaintiff at this time; however, the Class is estimated to be greater than 40 individuals and the identity of such membership is readily ascertainable by inspection of Defendant's records.

(b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each Class Member with whom there is a shared, well-

defined community of interest, and Plaintiff's claims (or defenses, if any) are typical of all Class Members' claims as demonstrated herein.

(c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each Class Member with whom there is a shared, well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff has no conflicts with or interests antagonistic to any Class Member. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and throughout the duration 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.

(d) Superiority: A Class Action is superior to other available methods for the fair and efficient adjudication of the controversy, including consideration of:

- 1) The interests of the members of the Class in individually controlling the prosecution or defense of separate actions;
- 2) The extent and nature of any litigation concerning the controversy already commenced by or against members of the Class;
- 3) The desirability or undesirability of concentrating the litigation of the claims in the particular forum; and
- 4) The difficulties likely to be encountered in the management of a class action.

(e) Public Policy Considerations: The public policy of the State of California is to resolve the California Labor Code claims of many employees through a class action. Indeed, current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are also fearful of bringing actions because they believe their former

employers might damage their future endeavors through negative references and/or other means. Class actions provide the class members who are not named in the complaint with a type of anonymity that allows for the vindication of their rights at the same time as their privacy is protected.

25. There are common questions of law and fact as to the Class (and each subclass, if any) that predominate over questions affecting only individual members, including without limitation, whether, as alleged herein, Defendant has:

- (a) Failed to pay Class Members for all hours worked, including minimum, straight time, and overtime wages;
- (b) Failed to provide meal periods and pay meal period premium wages to Class Members;
- (c) Failed to authorize and permit rest periods and pay rest period premium wages to Class Members;
- (d) Failed to provide Class Members with timely final wages;
- (e) Failed to provide Class Members with accurate wage statements; and
- (f) Violated California Business & Professions Code §§ 17200 *et. seq.* as a result of their illegal conduct as described above.

26. This Court should permit this action to be maintained as a class action pursuant to California Code of Civil Procedure § 382 because:

- (a) The questions of law and fact common to the Class predominate over any question affecting only individual members;
- (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 Class;
- (c) The members of the Class are so numerous that it is impractical to bring all members of the class before the Court;
- (d) Plaintiff, and the other members of the Class, will not be able to obtain effective economic and legal redress unless the action is maintained as a

class action;

- (e) There is a community of interest in obtaining appropriate legal and equitable relief for the statutory violations, and in obtaining adequate compensation for the damages and injuries for which Defendant is responsible in an amount sufficient to adequately compensate the members of the Class for the injuries sustained;
- (f) Without class certification, the prosecution of separate actions by individual members of the class would create a risk of:
- 1) Inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for Defendants; and/or
 - 2) Adjudications with respect to the individual members which would, as a practical matter, be dispositive of the interests of other members not parties to the adjudications, or would substantially impair or impede their ability to protect their interests, including but not limited to the potential for exhausting the funds available from those parties who are, or may be, responsible Defendants; and,
- (g) Defendant has acted or refused to act on grounds generally applicable to the Class, thereby making final injunctive relief appropriate with respect to the class as a whole.

27. Plaintiff contemplates the eventual issuance of notice to the proposed members of the Class that would set forth the subject and nature of the instant action. The Defendant's own business records may be utilized for assistance in the preparation and issuance of the contemplated notices. To the extent that any further notices may be required, Plaintiff would contemplate the use of additional techniques and forms commonly used in class actions, such as published notice, e-mail notice, website notice, first-class mail, or combinations thereof, or by other methods suitable to the Class and deemed necessary and/or appropriate by the Court.

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FIRST CAUSE OF ACTION

(Against all Defendant for Failure to Pay Minimum and Straight Time Wages for All Hours Worked)

28. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 18 in this Complaint.

29. “Hours worked” is the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

30. At all relevant times herein mentioned, Defendant knowingly failed to pay to Plaintiff and the Class compensation for all hours they worked. By their failure to pay compensation for each hour worked as alleged above, Defendant willfully violated the provisions of California Labor Code § 1194, and any additional applicable Wage Orders, which require such compensation to non-exempt employees.

31. Accordingly, Plaintiff and the Class are entitled to recover minimum and straight time wages for all non-overtime hours worked for Defendants.

32. By and through the conduct described above, Plaintiff and the Class have been deprived of their rights to be paid wages earned by virtue of their employment with Defendants.

33. By virtue of the Defendant’s unlawful failure to pay additional compensation to Plaintiff and the Class for their non-overtime hours worked without pay, Plaintiff and the Class suffered, and will continue to suffer, damages in amounts which are presently unknown to Plaintiff and the Class, but which exceed the jurisdictional minimum of this Court, and which will be ascertained according to proof at trial.

34. By failing to keep adequate time records required by California Labor Code § 1174(d), Defendant has made it difficult to calculate the full extent of minimum wage compensation due Plaintiff and the Class.

35. Pursuant to California Labor Code § 1194.2, Plaintiff and the Class are entitled to recover liquidated damages (double damages) for Defendant’s failure to pay minimum wages.

36. California Labor Code § 204 requires employers to provide employees with all

wages due and payable twice a month. Throughout the statute of limitations period applicable to this cause of action, Plaintiff and the Class were entitled to be paid twice a month at rates required by law, including minimum and straight time wages. However, during all such times, Defendant systematically failed and refused to pay Plaintiff and the Class all such wages due and failed to pay those wages twice a month.

37. Plaintiff and the Class are also entitled to seek recovery of all unpaid minimum and straight time wages, interest, and reasonable attorneys' fees and costs pursuant to California Labor Code §§ 218.5, 218.6, and 1194(a).

SECOND CAUSE OF ACTION

(Against all Defendant for Failure to Pay Overtime Wages)

38. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 18 in this Complaint.

39. California Labor Code § 510 provides that employees in California shall not be employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

40. California Labor Code §§ 1194 and 1198 provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, California Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

41. At all times relevant hereto, Plaintiff and the Class have worked more than eight hours in a workday, as employees of Defendant.

42. At all times relevant hereto, Defendant failed to pay Plaintiff and the Class overtime compensation for the hours they have worked in excess of the maximum hours permissible by law as required by California Labor Code §§ 510 and 1198.

43. By virtue of Defendant's unlawful failure to pay additional premium rate compensation to the Plaintiff and the Class for their overtime hours worked, Plaintiff and the Class have suffered, and will continue to suffer, damages in amounts which are presently

unknown to them but which exceed the jurisdictional minimum of this Court and which will be ascertained according to proof at trial.

44. By failing to keep adequate time records required by Labor Code § 1174(d), Defendant has made it difficult to calculate the full extent of overtime compensation due to Plaintiff and the Class.

45. Plaintiff and the Class also request recovery of overtime compensation according to proof, interest, attorneys' fees and costs pursuant to California Labor Code § 1194(a), as well as the assessment of any statutory penalties against Defendants, in a sum as provided by the California Labor Code and/or other statutes.

46. California Labor Code § 204 requires employers to provide employees with all wages due and payable twice a month. The Wage Orders also provide that every employer shall pay to each employee, on the established payday for the period involved, overtime wages for all overtime hours worked in the payroll period. Defendant failed to provide Plaintiff and the Class with all compensation due, in violation of California Labor Code § 204.

47. As such Plaintiff and the Class are owed \$882,336. Plaintiff's conservative estimate of the violation suffered by Plaintiff and the Class is one overtime violation per week, per class member (179 x (\$21 per hour x 208 weeks during the class period) = \$781,872).

THIRD CAUSE OF ACTION

(Against All Defendant for Failure to Provide Meal Periods)

48. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 18 in this Complaint.

49. Under California law, Defendant has an affirmative obligation to relieve the Plaintiff and the Class of all duty in order to take their first daily meal periods no later than the start of Plaintiff and the Class' sixth hour of work in a workday, and to take their second meal periods no later than the start of the eleventh hour of work in the workday. California Labor Code § 512, and Section 11 of the applicable Wage Orders require that an employer provide unpaid meal periods of at least 30 minutes for each five-hour period worked. It is a violation of California Labor Code § 226.7 for an employer to require any employee to work during any meal

period mandated under any Wage Order.

50. Despite these legal requirements, Defendant regularly failed to provide Plaintiff and the Class with both meal periods as required by California law. By their failure to permit and authorize Plaintiff and the Class to take all meal periods as alleged above (or due to the fact that Defendant made it impossible or impracticable to take these uninterrupted meal periods), Defendant willfully violated the provisions of California Labor Code § 226.7 and the applicable Wage Orders.

51. Under California law, Plaintiff and the Class are entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s), plus interest thereon.

52. As such Plaintiff and the Class are owed \$882,336. Plaintiff's conservative estimate of the violation suffered by Plaintiff and the Class is three meal break violations per week, per class member ((179 class members x \$14 per hour) x (208 weeks during class period x 3) = \$1,563,744).

FOURTH CAUSE OF ACTION

(Against All Defendant for Failure to Authorize and Permit Rest Periods)

53. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 18 in this Complaint.

54. Defendant is required by California law to authorize and permit breaks of 10 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). California Labor Code § 512, the applicable Wage Orders require that the employer permit and authorize all employees to take paid rest periods of 10 minutes each for each 4-hour period worked. Thus, for example, if an employee's work time is 6 hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws. It is a violation of California Labor Code § 226.7 for an employer to require any employee to work during any rest period mandated under any Wage Order.

55. Despite these legal requirements, Defendant failed to authorize Plaintiff and the

1 Class to take rest breaks, regardless of whether employees worked more than 4 hours in a
2 workday. By their failure to permit and authorize Plaintiff and the Class to take rest periods as
3 alleged above (or due to the fact that Defendant made it impossible or impracticable to take these
4 uninterrupted rest periods), Defendant willfully violated the provisions of California Labor Code
5 § 226.7 and the applicable Wage Orders.

6 56. Under California law, Plaintiff and the Class are entitled to be paid one hour of
7 premium wages rate for each workday he or she was not provided with all required rest break(s),
8 plus interest thereon.

9 57. As such Plaintiff and the Class are owed \$882,336. Plaintiff's conservative estimate of
10 the violation suffered by Plaintiff and the Class is three rest break violations per week, per class
11 member ((179 class members x \$14 per hour) x (208 weeks during class period x 3) =
12 \$1,563,744).

13 **FIFTH CAUSE OF ACTION**

14 **(Against all Defendant for Failure to Pay Wages of Discharged Employees – Waiting Time** 15 **Penalties)**

16 58. Plaintiff incorporates by reference and re-alleges as if fully stated herein
17 paragraphs 1 through 18 in this Complaint.

18 59. At all times herein set forth, California Labor Code §§ 201 and 202 provide that if
19 an employer discharges an employee, the wages earned and unpaid at the time of discharge are
20 due and payable immediately, and that if an employee voluntarily leaves his or his employment,
21 his or his wages shall become due and payable not later than seventy-two (72) hours thereafter,
22 unless the employee has given seventy-two (72) hours previous notice of his or his intention to
23 quit, in which case the employee is entitled to his or his wages at the time of quitting.

24 60. Within the applicable statute of limitations, the employment of Plaintiff and many
25 other members of the Class ended, i.e. was terminated by quitting or discharge, and the
26 employment of others will be. However, during the relevant time period, Defendant failed, and
27 continue to fail to pay terminated Class Members, without abatement, all wages required to be
28 paid by California Labor Code sections 201 and 202 either at the time of discharge, or within

seventy-two (72) hours of their leaving Defendant's employ.

61. Defendant's failure to pay Plaintiff and those Class members who are no longer employed by Defendant their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employ, is in violation of California Labor Code §§ 201 and 202.

62. California Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

63. Plaintiff and the Class are entitled to recover from Defendant their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30 days maximum pursuant to California Labor Code § 203.

64. Pursuant to California Labor Code §§ 218.5, 218.6 and 1194, Plaintiff and the Class are also entitled to an award of reasonable attorneys' fees, interest, expenses, and costs incurred in this action.

SIXTH CAUSE OF ACTION

(Against all Defendant for Failure to Provide and Maintain Accurate and Compliant Wage Records)

65. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 18 in this Complaint.

66. At all material times set forth herein, California Labor Code § 226(a) provides that every employer shall furnish each of his or his employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or his social security number or an employee

identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

67. Defendant has intentionally and willfully failed to provide employees with complete and accurate wage statements. The deficiencies include, among other things, the failure to correctly identify the gross wages earned by Plaintiff and the Class, the failure to list the true “total hours worked by the employee,” and the failure to list the true net wages earned.

68. As a result of Defendant’s violation of California Labor Code § 226(a), Plaintiff and the Class have suffered injury and damage to their statutorily protected rights.

69. Specifically, Plaintiff and the members of the Class have been injured by Defendant’s intentional violation of California Labor Code § 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate, itemized wage statements under California Labor Code § 226(a).

70. Calculation of the true wage entitlement for Plaintiff and the Class is difficult and time consuming. As a result of this unlawful burden, Plaintiff and the Class were also injured as a result of having to bring this action to attempt to obtain correct wage information following Defendant’s refusal to comply with many of the mandates of California’s Labor Code and related laws and regulations.

71. Plaintiff and the Class are entitled to recover from Defendant the greater of their actual damages caused by Defendant’s failure to comply with California Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars per employee.

72. Plaintiff and the Class are also entitled to injunctive relief, as well as an award of attorney’s fees and costs to ensure compliance with this section, pursuant to California Labor Code § 226(h).

SEVENTH CAUSE OF ACTION

(Against all Defendant for Violation of California Business & Professions Code §§ 17200, et seq.)

73. Plaintiff incorporates by reference and re-alleges as if fully stated herein

paragraphs 1 through 18 in this Complaint.

74. Defendants, and each of them, are “persons” as defined under California Business & Professions Code § 17201.

75. Defendant’s conduct, as alleged herein, has been, and continues to be, unfair, unlawful, and harmful to Plaintiff, other Class members, and to the general public. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

76. Defendant’s activities, as alleged herein, are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code §§ 17200, *et seq.*

77. A violation of California Business & Professions Code §§ 17200, *et seq.* may be predicated on the violation of any state or federal law. All of the acts described herein as violations of, among other things, the California Labor Code, are unlawful and in violation of public policy; and in addition are immoral, unethical, oppressive, fraudulent and unscrupulous, and thereby constitute unfair, unlawful and/or fraudulent business practices in violation of California Business & Professions Code §§ 17200, *et seq.*

Failure to Pay Minimum and Straight Time Wages

78. Defendant’s failure to pay minimum wages, straight time wages, and other benefits in violation of the California Labor Code constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

Failure to Pay Overtime Wages

79. Defendant’s failure to pay overtime compensation and other benefits in violation of California Labor Code §§ 510, 1194, and 1198 constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

Failure to Provide Meal Periods

80. Defendant’s failure to provide meal periods in accordance with California Labor Code §§ 226.7 and 512, and the IWC Wage Orders, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

Failure to Authorize and Permit Rest Periods

81. Defendant's failure to authorize and permit rest periods in accordance with California Labor Code § 226.7 and the IWC Wage Orders, as alleged above, constitutes unlawful and/or unfair activity prohibited by Business and Professions Code §§ 17200, *et seq.*

Failure to Provide Accurate Itemized Wage Statements

82. Defendant's failure to provide accurate itemized wage statements in accordance with California Labor Code § 226, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

83. By and through their unfair, unlawful and/or fraudulent business practices described herein, the Defendant, has obtained valuable property, money and services from Plaintiff, and all persons similarly situated, and have deprived Plaintiff, and all persons similarly situated, of valuable rights and benefits guaranteed by law, all to their detriment.

84. Plaintiff and the Class Members suffered monetary injury as a direct result of Defendant's wrongful conduct.

85. Plaintiff, individually, and on behalf of members of the putative Class, is entitled to, and do, seek such relief as may be necessary to disgorge money and/or property which the Defendant has wrongfully acquired, or of which Plaintiff and the Class have been deprived, by means of the above-described unfair, unlawful and/or fraudulent business practices. Plaintiff and the Class are not obligated to establish individual knowledge of the wrongful practices of Defendant in order to recover restitution.

86. Plaintiff, individually, and on behalf of members of the putative class, is further entitled to and does seek a declaration that the above described business practices are unfair, unlawful and/or fraudulent, and injunctive relief restraining the Defendant from engaging in any of the above-described unfair, unlawful and/or fraudulent business practices in the future.

87. Plaintiff, individually, and on behalf of members of the putative class, has no plain, speedy, and/or adequate remedy at law to redress the injuries which the Class Members suffered as a consequence of the Defendant's unfair, unlawful and/or fraudulent business practices. As a result of the unfair, unlawful and/or fraudulent business practices described

1 above, Plaintiff, individually, and on behalf of members of the putative Class, has suffered and
2 will continue to suffer irreparable harm unless the Defendant is restrained from continuing to
3 engage in said unfair, unlawful and/or fraudulent business practices.

4 88. Plaintiff also alleges that if Defendant is not enjoined from the conduct set forth
5 herein above, they will continue to avoid paying the appropriate taxes, insurance and other
6 withholdings.

7 89. Pursuant to California Business & Professions Code §§ 17200, *et seq.*, Plaintiff
8 and putative Class Members are entitled to restitution of the wages withheld and retained by
9 Defendant during a period that commences four years prior to the filing of this complaint; a
10 permanent injunction requiring Defendant to pay all outstanding wages due to Plaintiff and Class
11 Members; an award of attorneys' fees pursuant to California Code of Civil Procedure § 1021.5
12 and other applicable laws; and an award of costs.

13 EIGHTH CAUSE OF ACTION

14 (Against all Defendants for Civil Penalties Under the Private Attorneys General Act of 15 2004, Cal. Lab. Code § 2698 et seq.)

16 90. Plaintiff incorporates by reference and re-alleges as if fully stated herein
17 paragraphs 1 through 18 in this Complaint.

18 91. At all times herein mentioned, Defendants were subject to the Labor Code of the
19 State of California and the applicable Industrial Welfare Commission Orders.

20 92. California Labor Code § 2699(a) specifically provides for a private right of action
21 to recover penalties for violations of the Labor Code: "Notwithstanding any other provision of
22 law, any provision of this code that provides for a civil penalty to be assessed and collected by
23 the Labor and Workforce Development Agency or any of its departments, divisions,
24 commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative,
25 be recovered through a civil action brought by an aggrieved employee on behalf of himself or
26 herself and other current or former employees pursuant to the procedures specified in Section
27 2699.3."

28 93. Plaintiff has exhausted his administrative remedies pursuant to California Labor

Code § 2699.3. He gave written notice by online filing to the LWDA and by certified mail to Defendants of the specific provisions of the Labor Code that Defendant violated against Plaintiff and current and former aggrieved employees, including the facts and theories to support the violations. Plaintiff also paid the filing fee.

94. The LWDA has not indicated that it intends to investigate Defendants' Labor Code violations discussed in the notice. Accordingly, Plaintiff may commence a civil action to recover penalties under Labor Code § 2699 pursuant to § 2699.3 for the violations of the Labor Code described in this Complaint. These penalties include, but are not limited to, penalties under California Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699.

95. Based on the conduct described in this Complaint, Plaintiff is entitled to an award of civil penalties on behalf of himself, the State of California, and similarly Aggrieved Employees of Defendants. The exact amount of the applicable penalties, in all, is in an amount to be shown according to proof at trial. These penalties are in addition to all other remedies permitted by law.

96. In addition, Plaintiff seeks an award of reasonable attorney's fees and costs pursuant to California Labor Code § 2699(g)(1), which states, "Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs."

PRAYER FOR RELIEF

Plaintiff, individually, and on behalf of all others similarly situated only with respect to the class claims, prays for relief and judgment against Defendant as follows:

Class Certification

1. That this action be certified as a class action with respect to the First, Second, Third, Fourth, Fifth, Sixth and Seventh Causes of Action;
2. That Plaintiff be appointed as the representative of the Class; and
3. That counsel for Plaintiff be appointed as Class Counsel.

As to the First Cause of Action

4. That the Court declare, adjudge, and decree that Defendant violated California

1 Labor Code §§ 204 and 1194 and applicable IWC Wage Orders by willfully failing to pay all
2 minimum and straight time wages due;

3 5. For unpaid wages as may be appropriate;

4 6. For pre-judgment interest on any unpaid compensation commencing from the date
5 such amounts were due;

6 7. For liquidated damages;

7 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
8 California Labor Code § 1194(a); and,

9 9. For such other and further relief as the Court may deem equitable and appropriate.

10 As to the Second Cause of Action

11 10. That the Court declare, adjudge, and decree that Defendant violated California
12 Labor Code §§ 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all
13 overtime wages due;

14 11. For one overtime payment violation per week, per class member (179 x (\$21 per
15 hour x 208 weeks during the class period) = \$781,872;

16 12. For pre-judgment interest on any unpaid overtime compensation commencing
17 from the date such amounts were due;

18 13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
19 California Labor Code § 1194(a); and,

20 14. For such other and further relief as the Court may deem equitable and appropriate.

21 As to the Third Cause of Action

22 15. That the Court declare, adjudge, and decree that Defendant violated California
23 Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

24 16. For three meal break violations ((179 class members x \$14 per hour) x (208 weeks
25 during class period x 3) = \$1,563,744);

26 17. For pre-judgment interest on any unpaid compensation commencing from the date
27 such amounts were due;

28 18. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5,

and for costs of suit incurred herein; and

19. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fourth Cause of Action

20. That the Court declare, adjudge, and decree that Defendant violated California Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

21. For three rest break violations ((179 class members x \$14 per hour) x (208 weeks during class period x 3) = \$1,563,744);

22. For pre-judgment interest on any unpaid compensation commencing from the date such amounts were due;

23. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5, and for costs of suit incurred herein; and

24. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fifth Cause of Action

25. That the Court declare, adjudge and decree that Defendant violated California Labor Code §§ 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment;

26. For statutory wage penalties pursuant to California Labor Code § 203 for former employees who have left Defendant's employ;

27. For pre-judgment interest on any unpaid wages from the date such amounts were due;

28. For reasonable attorneys' fees and for costs of suit incurred herein; and

29. For such other and further relief as the Court may deem equitable and appropriate.

As to the Sixth Cause of Action

30. That the Court declare, adjudge, and decree that Defendant violated the record keeping provisions of California Labor Code § 226(a) and applicable IWC Wage Orders, and willfully failed to provide accurate itemized wage statements thereto;

31. For all actual damages, according to proof;

32. For statutory penalties pursuant to California Labor Code § 226(e);

33. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code § 226(h);

34. For reasonable attorneys' fees and for costs of suit incurred herein; and

35. For such other and further relief as the Court may deem equitable and appropriate.

As to the Seventh Cause of Action

36. That the Court declare, adjudge, and decree that Defendants violated California Business & Professions Code §§ 17200, *et seq.* by failing to pay wages for all hours worked (including minimum, straight time, and overtime wages), failing to provide meal periods, failing to authorize and permit rest periods, failing to timely pay final wages upon termination and failing to furnish accurate wage statements;

37. For restitution of unpaid wages to Plaintiff and all Class Members and prejudgment interest from the day such amounts were due and payable;

38. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendant and determined to have been wrongfully acquired by Defendant as a result of violations of California Business & Professions Code §§ 17200 *et seq.*;

39. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure § 1021.5;

40. For injunctive relief to ensure compliance with this section, pursuant to California Business & Professions Code §§ 17200, *et seq.*; and,

41. For such other and further relief as the Court may deem equitable and appropriate.

As to the Eighth Cause of Action

42. That the Court declare, adjudge and decree that Defendants violated the California Labor Code by failing to pay wages for all hours worked (including minimum, straight time, and overtime wages), failing to provide meal periods and pay the correct amount of meal period premium wages, failing to authorize and permit rest periods and pay the correct amount of rest period premium wages, failing to pay all final wages to terminated employees, and failing to furnish accurate wage statements;

43. For all actual, consequential and incidental losses and damages, according to

proof;

44. For all civil penalties pursuant to California Labor Code section 2699, et seq., and all other applicable Labor Code provisions;

45. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 2699; and

46. For such other and further relief as the Court may deem equitable and appropriate.

As to all Causes of Action

47. For attorneys' fees totalling \$1,133,958.74 based on the percentage of the fund theory. Attorneys' fees are calculated at 25% of the common fund.

48. For interest totalling \$626,474.94. The yearly principle of \$977,340 accrued compounding interest at 10% each year for 3 years. This results in a total interest of \$626,474.94.

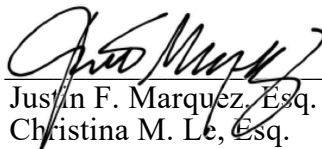
49. For costs totally \$1,926.30.

50. For any additional relief that the Court deems just and proper.

Respectfully submitted,

Dated: September 30, 2022

WILSHIRE LAW FIRM

By: 

Justin F. Marquez, Esq.

Christina M. Le, Esq.

Nicol E. Hajjar, Esq.

Zachary D. Greenberg, Esq.

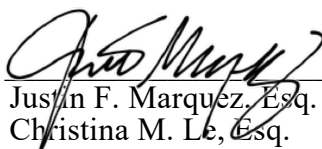
Attorneys for Plaintiff Ernesto Alvidrez

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury as to all causes of action triable by jury.

Dated: September 30, 2022

WILSHIRE LAW FIRM

By: 

Justin F. Marquez, Esq.

Christina M. Le, Esq.

Nicol E. Hajjar, Esq.

Zachary D. Greenberg, Esq.

Attorneys for Plaintiff Ernesto Alvidrez

PROOF OF SERVICE

Ernesto Alvidrez v. Supreme HR Services, LLC, et al.
30-2020-01133754-CU-OE-CXC

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

I, Sandy S. Sespene, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is sspene@wilshirelawfirm.com.

On **September 30, 2022**, I served the foregoing **PLAINTIFF'S SECOND AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT FOR DAMAGES**, on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

Oscar D. Jesus
17853 Santiago Blvd., Suite 262
Villa Park, California 92861

Supreme HR Services LLC
2120 E. Howell Ave., Suite 406
Anaheim, California 92806-6029

Agent for Service of Process for Defendant Defendant
Supreme HR Services LLC

(X) **BY MAIL:** I enclosed the above documents in a sealed envelope with postage thereon fully prepaid and placed for collection and mailing on the above date in accordance with ordinary business practices. I am readily familiar with this firm's practice of collection and processing of correspondence for mailing with the United States Postal Service, and that the correspondence shall be deposited with the United States Postal Service the same day in the ordinary course of business pursuant to Cal. Code Civ. Proc. § 1013(a).

I declare under the penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed on **September 30, 2022** at Los Angeles, California.



Sandy S. Sespene