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County of Los Angeles

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13 others similarly situated and aggrieved

14
15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **IN AND FOR THE COUNTY OF LOS ANGELES**

20STCV49158

17 JESUS LOPEZ and CHRISTIAN JUAREZ,
18 on behalf of themselves and all others
19 similarly situated and aggrieved,

Case No.:

**CLASS ACTION AND REPRESENTATIVE
COMPLAINT**

20 Plaintiffs,

JURY TRIAL DEMANDED

21 vs.

22 OS4LABOR LLC, a California limited
23 liability company; BRYAN GORDON, an
24 individual; and DOES 1 to 100, inclusive,

25 Defendants.

1 Plaintiffs JESUS LOPEZ and CHRISTIAN JUAREZ, on behalf of themselves and all other
2 employees similarly situated and aggrieved, hereby file this Complaint against Defendants
3 OS4LABOR LLC and DOES 1 to 100, inclusive (collectively referred to herein as "Defendants").
4 Plaintiffs are informed and believes, and on the basis of that information and belief, allege as follows:

5 **JURISDICTION AND VENUE**

6 1. Jurisdiction is proper in this court by virtue of the California statutes, decisional
7 law, and regulations, and the local rules under the Los Angeles Superior Court Rules.

8 2. Venue in this Court is proper in that Defendant OS4LABOR LLC has a principal
9 business address located in the County of Los Angeles, State of California.

10 **THE PARTIES**

11 3. Plaintiff JESUS LOPEZ ("Plaintiff LOPEZ") is, and at relevant times was, an individual
12 domiciled in the State of California and a citizen of the State of California who worked as a non-
13 exempt hourly employee for Defendants in the State of California.

14 4. Plaintiff CHRISTIAN JUAREZ ("Plaintiff JUAREZ") is, and at relevant times was, an
15 individual domiciled in the State of California and a citizen of the State of California who worked
16 as a non-exempt hourly employee for Defendants in the State of California.

17 5. Defendant OS4LABOR LLC ("OS4LABOR") is a California limited
18 liability company that, at all relevant times, was authorized to do business within the State of
19 California and is doing business in the State of California.

20 6. On information and belief, BRYAN GORDON is an individual residing in the
21 State of California and is, and at all relevant times has been, the President of OS4LABOR LLC.
22 On information and belief, BRYAN GORDON devised and implemented the policies at issue in this
23 complaint and "caused" these violations as that term is used in Labor Code §§ 558 and 1197.1.
24 Pursuant to Labor Code §§558 and 1197.1, BRYAN GORDON is liable as a person who "caused"
25 the violations to occur.

26 7. The true names and capacities of the DOE Defendants sued herein as DOES 1 through
27 100, inclusive, are currently unknown to Plaintiff, who therefore sues each such Defendants by said
28 fictitious names. Each of the Defendants designated herein as a DOE is legally responsible for the

1 unlawful acts alleged herein. Plaintiffs will seek leave of Court to amend this Complaint to reflect
2 the true names and capacities of the Doe Defendants when such identities become known.

3 8. Plaintiffs are further informed and believes that, at all relevant times, each Defendant
4 was the principal, agent, partner, joint venturer, joint employer, officer, director, controlling
5 shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in
6 interest of some or all of the other Defendants, and was engaged with some or all of the other
7 Defendants in a joint enterprise for profit, and bore such other relationships to some or all of the
8 other Defendants so as to be liable for their conduct with respect to the matters alleged in this
9 complaint. Plaintiffs are further informed and believe and thereon allege that each Defendant acted
10 pursuant to and within the scope of the relationships alleged above, and that at all relevant times,
11 each Defendant knew or should have known about, authorized, ratified, adopted, approved,
12 controlled, aided and abetted the conduct of all other Defendants.

13 9. At all relevant times, Defendants were and are legally responsible for all of the unlawful
14 conduct, policies, practices, acts and omissions complained of herein. Further, Defendants are
15 responsible for each of the unlawful acts or omissions complained of herein under the doctrine of
16 respondent superior. The conduct of Defendants' managers and supervisors was at all relevant times
17 undertaken as employees of Defendants, acting within the scope of their employment or authority
18 in all of the unlawful activities described herein.

19 **CLASS ALLEGATIONS**

20 10. Plaintiffs bring this action as a class action under Code of Civil Procedure section 382
21 on behalf of themselves and all others similarly situated. The class Plaintiffs seek to represent is
22 defined as follows: "All non-exempt workers who were directly employed by OS4LABOR -
23 regardless of where those non-exempt workers were assigned/staffed to work by OS4LABOR – in
24 California, at any time within the four years prior to the filing of the initial complaint."

25 a. Numerosity: While the exact number of Class Members is unknown to Plaintiffs
26 at this time, the class is so numerous that the individual joinder of all members is
27 impractical under the circumstances of this case.

28 b. Common Questions of Law and Fact. This lawsuit is suitable for class treatment

1 because common questions of law and fact predominate over individual issues.
2 Common questions include, but are not limited to, the following: (1) whether
3 Defendants provided Plaintiffs and the Class Members with all meal periods or
4 premium payments in lieu thereof in compliance with California law; (2) whether
5 Defendants provided Plaintiffs and the Class Members with all rest periods, or
6 premium payments in lieu thereof, in compliance with California law; (3) whether
7 Defendants failed to pay Plaintiffs and the Class Members all owed minimum
8 wages in compliance with California law; (4) whether Defendants failed to pay
9 Plaintiffs and the Class Members all sick leave time benefits in compliance with
10 California law (5) whether Defendants failed to pay Plaintiffs and the Class
11 Members all owed overtime wages in compliance with California law; (6)
12 whether Defendants provided Plaintiffs and the Class Members with accurate,
13 itemized wage statements in compliance with California law; (7) whether
14 Defendants timely paid Plaintiffs and the Class Members all wages due during
15 their employment and upon separation of employment; and (8) whether
16 Defendants violated California Business and Professions Code sections 17200,
17 et seq.

- 18 c. Ascertainable Class. The proposed class is ascertainable as its members can be
19 identified and located using information in Defendants' business, payroll and
20 personnel records.
- 21 d. Numerosity. The plaintiff class is so numerous that the individual joinder of all
22 members is impractical under the circumstances of this case. While the exact
23 number of Class Members is unknown to Plaintiff, Plaintiff is informed and
24 believes the class consists of at least 100 individuals.
- 25 e. Typicality. Plaintiffs' claims are typical of the claims of the Class Members.
26 Plaintiffs suffered a similar injury as the other Class Members as a result of
27 Defendants' common practices regarding, inter alia, failure to provide proper
28 meal and rest periods or premium compensation in lieu thereof, failure to provide

1 all owed minimum and overtime wages, failure to provide accurate wage
2 statements, and failure to pay all wages due upon termination. In addition,
3 Plaintiffs will fairly and adequately protect the interests of the Class Members.
4 Plaintiffs have no interests adverse to the interests of the other Class Members.

5 f. Superiority. A class action is superior to other available means for the fair and
6 efficient adjudication of this controversy since individual joinder of all members
7 of the class is impractical. Class action treatment will permit a large number of
8 similarly situated persons to prosecute their common claims in a single forum
9 simultaneously, efficiently, and without the unnecessary duplication of effort and
10 expense that numerous individual actions would engender. Furthermore, as the
11 damages suffered by each individual member of the class may be relatively small,
12 the expenses and burden of individual litigation would make it difficult or
13 impossible for individual members of the class to redress the wrongs done to
14 them, while an important public interest will be served by addressing the matter
15 as a class action. The cost to the court system of adjudication of such
16 individualized litigation would be substantial. Individualized litigation would
17 also present the potential for inconsistent or contradictory judgments. Finally,
18 the alternative of filing a claim with the California Labor Commissioner is not
19 superior, given the lack of discovery in such proceedings, the fact that there are
20 fewer available remedies, and the losing party has the right to a trial de novo in
21 the Superior Court.

22 FACTUAL ALLEGATIONS

23 11. During the four-year period preceding filing of this complaint, Plaintiffs and each of the
24 Class Members were employed by Defendants in the State of California as non-exempt, hourly paid
25 workers. Defendants, at all times, exercised control over Plaintiffs and each of the Class Members,
26 and suffered and/or permitted them to work.

27 12. Plaintiff LOPEZ was employed by Defendant OS4LABOR from January 2019 through
28

1 May 2019. He was placed by OS4LABOR at a company called GST Transport, assigned to work
2 as a driver; his job duties involved hauling loads among various local locations, specifically, Long
3 Beach, Rialto, and Wilmington, California. Plaintiff LOPEZ typically worked eight (8) hours to
4 nine (9) hours per day, five (5) to six (6) days per week.

5 13. Plaintiff JUAREZ was employed by Defendant OS4LABOR from December 2018
6 through May 2019 as a driver; his job duties involved hauling loads from Long Beach to Rialto,
7 California. Plaintiff JUAREZ typically worked eight (8) to twelve (12) hours per day, five (5) days
8 per week.

9 14. Plaintiffs were unable to take timely, thirty-minute uninterrupted meal periods, often
10 being forced to take late meal periods and/or work through their meal periods or any purported taken
11 meal periods would be interrupted/cut short due to the nature and constraints of their job duties and
12 commentary from supervisors instructing them to take non-compliant breaks or none at all.
13 Nevertheless, Defendants implemented a policy and practice of automatically deducting thirty
14 minutes to an hour per shift for purported meal periods, despite having actual and/or constructive
15 knowledge that Plaintiffs and the Class Members did not receive timely, compliant, uninterrupted
16 meal periods. This automatic deduction policy for meal periods not provided resulted in the
17 underpayment of minimum wages and overtime pay. Plaintiffs and the Class Members did not
18 receive premium pay for these interrupted, cut short, missed and/or late meal periods.

19 15. Plaintiffs were unable to take timely, off-duty rest periods, and were required to work
20 through and/or cut short any purported rest periods, due to pressures from their workloads and from
21 management to take shorter rest periods than they were entitled to, or none at all. Plaintiffs did not
22 receive premium pay for any of these missed, late, shortened or interrupted rest periods.

23 16. Additionally, Defendants failed to pay Plaintiffs and the Class Members at the proper
24 overtime premium wage rate(s) for work performed beyond eight (8) hours in a day and beyond
25 forty hours in a week.

26 17. Furthermore, Defendants failed to properly accrue and pay sick leave time benefits
27 resulting in the underpayment of sick leave time benefits.

28 18. During the relevant time period, Plaintiffs and the Class Members failed to receive

1 accurate wage statements that complied with Labor Code section 226. Plaintiffs' paystubs did not
2 accurately reflect, *inter-alia*, meal and rest break premiums for all denied meal and rest breaks and
3 all owed minimum and overtime wages and sick leave pay. Accordingly, Defendants have violated
4 Labor Code section 226.

5 19. Plaintiffs' employment with Defendants ended in May 2019 , yet Defendants did
6 not provide Plaintiffs with their final pay checks until the next regular pay date/next pay period such
7 that Plaintiffs' final payroll checks were not timely provided to Plaintiffs. Moreover, Plaintiffs'
8 final pay checks, once provided, did not include all remuneration owed to them as they were devoid
9 of all owed meal and rest period premiums and all owed minimum and overtime wages.

10 20. Plaintiffs are informed and believe that Defendants engaged in these same herein
11 described unlawful practices with regard to all of the Class Members.

12 **FIRST CAUSE OF ACTION**

13 **(Recovery of Unpaid Minimum Wages and Liquidated Damages -** 14 **Labor Code §§ 510, 1194 and 1194.2)**

15 21. Plaintiffs incorporate all preceding paragraphs as if fully alleged herein.

16 22. California law provides employees in California must be paid for all hours worked, up
17 to 40 per week or 8 per day, at a regular time rate no less than the mandated minimum wage. As
18 alleged herein, Plaintiffs and the Class Members regularly worked hours for which they were not
19 compensated by Defendants as required by California law. They were were required to perform off-
20 the-clock work by virtue of Defendants' automatic-deduction policy for meal periods, *to wit*:
21 Plaintiffs and the Class Members would be required to work through all or part of their meal periods
22 yet Defendants implemented a policy and practice of automatically deducting thirty minutes to an
23 hour per shift for purported meal periods, despite having actual and/or constructive knowledge that
24 Plaintiffs and the Class Members were not receiving timely, compliant, uninterrupted meal periods,
25 resulting in off-the-clock work and thus the underpayment of minimum wages.

26 23. Pursuant to Labor Code sections 1194 and 1194.2, Plaintiffs and the Class Members are
27 entitled to recover all unpaid minimum time wages and liquidated damages thimeon, plus attorney's
28 fees and costs, in an amount to be proved at trial.

1 **SECOND CAUSE OF ACTION**

2 **(Recovery of Unpaid Overtime – Labor Code §510)**

3 24. Plaintiffs incorporate all preceding paragraphs as if fully alleged herein.

4 25. California law provides employees in California must be paid overtime, equal to 1.5
5 times the employee's regular rate of pay, for all hours worked in excess of 40 per week or 8 per day,
6 and must be paid double wages for all hours worked in excess of 12 per day, unless they are exempt.
7 As alleged herein, Plaintiffs and the Class Members worked overtime hours for which they were
8 not compensated by Defendants as required by California law. They were required to perform
9 off-the-clock work, *to wit*: Plaintiffs and the Class Members would be required to work through all
10 or part of their meal periods while Defendant would perform an automatic thirty-minute to one (1)
11 hour automatic deduction for these non-compliant meal periods, resulting in significant off-the-
12 clock work/unpaid work hours. Given Plaintiffs and the Class Members' typical work schedules,
13 this resulted in significant denied overtime wages for Plaintiffs and the Class Members. Defendants
14 owe Plaintiffs and the Class Members compensation for this work, and the addition of such hours
15 would require payment at an overtime rate. Separately, Defendants failed to pay Plaintiffs and the
16 Class Members at the proper overtime premium wage rate(s) for work performed beyond eight (8)
17 hours in a day and beyond forty hours in a week.

18 26. Plaintiffs and the Class Members are entitled to recover all unpaid overtime wages, plus
19 attorney's fees and costs, in an amount to be proved at trial.

20 **THIRD CAUSE OF ACTION**

21 **(Failure to Provide Meal Periods or Compensation in Lieu Thimeof --**
22 **Labor Code § 226.7)**

23 27. Plaintiffs incorporate all preceding paragraphs as if fully alleged herein.

24 28. Under the Labor Code and IWC Wage Orders, Defendants were required to provide
25 Plaintiff and the Class Members with one 30-minute meal break free from all duties for all shifts
26 longer than 5 hours, and a second 30-minute meal break free from all duties for all shifts longer than
27 10 hours. Meal periods can be waived, but only under the following circumstances: (1) if an
28 employee's total work period in a day is over five (5) hours but no more than six (6) hours, the

1 required meal period may be waived by mutual consent of the employer and employee, and (2) if
2 an employee's total work period in a day is over ten (10) hours but no more than twelve (12) hours,
3 the required second meal period may be waived by mutual consent of the employer and employee,
4 but only if the first meal period was not waived. Employers covered by the Wage Orders have an
5 obligation to both (1) relieve their employees for at least one meal period for shifts over five hours
6 (see above), and (2) to record having done so. If the employer fails to properly record a valid meal
7 period, it is presumed no meal period was provided.

8 29. Plaintiffs and Class Members regularly worked periods of more than five and ten hours
9 in a workday without being provided proper mandatory thirty-minute, duty-free meal periods. Upon
10 information and belief, Defendants failed to maintain a company meal period policy compliant with
11 California law. Plaintiffs and Class Members were regularly unable to take thirty-minute
12 uninterrupted first meal periods before the end of the fifth hour of work nor thirty-minute
13 uninterrupted second meal periods before the end of the tenth hour worked. They were unable to
14 avail themselves of such breaks for various reasons, including, their workload and commentary from
15 supervisors pressuring Plaintiffs and the Class Members to take non-compliant meal breaks, or none
16 at all. As described *supra*, Defendants would perform an automatic deduction for these purported
17 meal breaks. Defendants also failed to pay Plaintiffs and Class Members an additional hour of
18 wages at their regular rates of pay for each workday a meal period was not provided.

19 30. Defendants failed to provide Plaintiffs and the Class Members with all required meal
20 periods, or with compensation in lieu thereof. As a result, under Labor Code section 226.7,
21 Plaintiffs and the Class Members are entitled to one additional hour's pay for each day a meal period
22 was missed, late or interrupted, all in an amount to be proved at trial.

23 **FOURTH CAUSE OF ACTION**

24 **(Failure to Provide Rest Periods or Compensation in Lieu Thereof --** 25 **Labor Code § 226.7)**

26 31. Plaintiffs incorporate all preceding paragraphs as if fully alleged herein.

27 32. California law requires an employer to authorize or permit an employee to take a rest
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1 period of ten minutes for every four hours worked, or major fraction thereof, and such rest periods
2 must be in the middle of the four-hour period insofar as practicable. If the employer fails to provide
3 any required rest periods, or fails to provide a fully compliant rest break of 10 minutes whimein the
4 employee is fully relieved of all duties and all employer control, the employer must pay the
5 employee one hour of pay at the employee's regular rate of compensation for each workday the
6 employer did not provide a legally required and/or fully compliant rest period.

7 33. Defendants employed policies and procedures that ensured Plaintiffs and the other Class
8 Members would not receive all legally required rest periods, as Defendants did not authorize nor
9 permit all required rest periods in strict accordance to, and in compliance with, the timing
10 requirements of all applicable Wage Orders. Defendants failed to relieve Plaintiffs and Class
11 Members of all duties and all employer control for purposes of taking any rest breaks. Plaintiffs and
12 Class Members regularly worked enough hours to be entitled to at least two (2) rest breaks in a shift,
13 which Defendants failed to allow for. Similar to meal breaks, Plaintiffs and the Class Members
14 were not able to avail themselves of their due rest breaks for various reasons, including, the pressures
15 from their workloads and commentary from superiors instructing them to take shorter breaks than
16 they were entitled to or no breaks at all. Per Defendants' illegal rest period policy/practice, Plaintiffs
17 and Class Members were not relieved of their duties for purposes of taking any rest periods.
18 Defendants further employed policies and procedures ensuring Plaintiffs and Class Members did
19 not receive premium wages to compensate them for workdays they did not receive all legally
20 required and fully compliant rest periods.

21 34. Defendants failed to provide Plaintiffs and the Class Members with all required rest
22 periods, or with compensation in lieu thereof. As a result, under Labor Code section 226.7, Plaintiffs
23 and the Class Members are entitled to one additional hour's pay for each day a rest break was missed,
24 late or interrupted, all in an amount to be proved at trial.

25 **FIFTH CAUSE OF ACTION**

26 **(Failure To Pay Sick Time Benefits – Labor Code §246)**

27 35. Plaintiffs incorporate all preceding paragraphs as if fully alleged herein.

28 36. California Labor Code §246(1)(1) provides that paid sick time for non-exempt

1 employees be “calculated in the same manner as the regular rate of pay for the workweek in which
2 the employee uses paid sick time, whether or not the employee actually works overtime in the
3 workweek.”

4 37. California Labor Code §246(1)(2) further provides that paid sick time for non-exempt
5 employees be “calculated by dividing the employee’s total hours worked in the full pay periods of
6 the prior 90 days of employment.

7 38. Defendants violated Labor Code §246 by failing to pay all owed sick leave time. Upon
8 information and belief, Defendants failed to comply with California Sick Leave Laws as to Plaintiffs
9 and the Class Members.

10 **SIXTH CAUSE OF ACTION**

11 **(Failure to Provide Accurate Wage Statements – Labor Code § 226)**

12 39. Plaintiffs incorporate all preceding paragraphs as if fully alleged herein.

13 40. Labor Code section 226(a) provides, in relevant part, that “[a]n employer, semimonthly
14 or at the time of each payment of wages, shall furnish to his or him employee, either as a detachable
15 part of the check, draft, or vouchim paying the employee’s wages, or separately if wages are paid
16 by personal check or cash, an accurate itemized statement in writing showing (1) gross wages
17 earned, (2) total hours worked by the employee . . . , (5) net wages earned, [and] (6) the inclusive
18 dates of the period for which the employee is paid . . . , (8) the name and address of the legal entity
19 that is the employer . . . , (9) all applicable hourly rates in effect during the pay period and the
20 corresponding number of hours worked at each hourly rate by the employee”

21 41. Labor Code section 226(e) provides that “[a]n employee suffering injury as a result of a
22 jknowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover
23 the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
24 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period,
25 not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of
26 costs and reasonable attorney’s fees.

27 42. Labor Code section 226.3 provides that “[a]ny employer who violates subdivision (a) of
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1 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per
2 employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each
3 violation in a subsequent citation, for which the employer fails to provide the employee a wage
4 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

5 43. Defendants knowingly and intentionally failed to provide Plaintiffs and other Class
6 Members with proper, itemized wage statements as the wage statements provided by Defendants do
7 not accurately reflect, *inter alia*, gross and net wages earned, and Defendants’ wage statements are
8 devoid of amounts owed in meal and rest period premiums as well as all owed sick leave pay.
9 Accordingly, Plaintiff and the Class Members are entitled to damages and penalties.

10 **SEVENTH CAUSE OF ACTION**

11 **(Failure to Timely Pay Wages During Employment and Upon Separation of Employment)**

12 44. Plaintiffs incorporate all preceding paragraphs as if fully alleged herein.

13 45. Labor Code section 204 requires employers to pay all wages (other than those mentioned
14 in Labor Code sections 201 , 201.3 , 202 , 204.1 , or 204.2) earned by any person in any employment
15 twice during each calendar month, on days designated in advance by the employer as the regular
16 paydays. California Labor Code section 201(a) provides, in relevant part, that “[i]f an employer
17 discharges an employee, the wages earned and unpaid at the time of discharge are due and payable
18 immediately.”

19 46. California Labor Code section 202(a) provides, in relevant part, that “[i]f an employee
20 not having a written contract for a definite period quits his or him employment, his or him wages
21 shall become due and payable not later than 72 hours thimeafter, unless the employee has given 72
22 hours previous notice of his or him intention to quit, in which case the employee is entitled to his or
23 him wages at the time of quitting.”

24 47. Defendants failed to pay Plaintiffs and the Class Members all wages that were due and
25 owing during their employments; and, failed to pay Plaintiffs and the Class Members who are former
26 employees all wages that were due and owing upon termination or resignation. Among other things,
27 Plaintiffs and the Class Members were not paid all owed minimum and overtime wages, all owed
28 sick leave pay, nor all owed meal and rest break premiums. Defendants also systematically pays

1 final wages at the end of the final pay period rather than on the final day of work or the statutorily
2 mandated time to pay final wages under California law. Plaintiff and the Class Members therefore
3 seeks damages and penalties.

4 **EIGHTH CAUSE OF ACTION**

5 **(Failure to Maintain Accurate Records)**

6 48. Plaintiffs incorporate all preceding paragraphs as if fully alleged herein.

7 49. California Labor Code sections 226 and 1174-75 require an employer to keep accurate
8 records of all hour an employee works.

9 50. California Labor Code section 1174.5 provides that “[a]ny person employing labor who
10 willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and
11 complete records required by subdivision (d) of Section 1174 . . . shall be subject to a civil penalty
12 of five hundred dollars (\$500).”

13 51. Section 7(A)(3) of the IWC Wage Orders similarly requires an employer to keep accurate
14 records showing when an employee begins and ends each meal period.

15 52. Plaintiffs are informed and believes that Defendants failed to maintain accurate records
16 in compliance with these statutes. Among other things, Defendants failed to record the true hours
17 worked and the true start and stop times of all meal periods owed to Plaintiffs and the Class
18 Members.

19 53. Plaintiffs and the Class Members therefore seek damages and penalites as a result of
20 these violations.

21 **NINTH CAUSE OF ACTION**

22 **(Violation of Unfair Competition Law – Bus. & Prof. Code § 17200, et seq.)**

23 54. Plaintiffs incorporate all preceding paragraphs as if fully alleged herein.

24 55. Defendants’ failure, inter alia, to pay Plaintiffs and the Class Members for all hours
25 worked, failure to pay all owed overtime and minimum wages, sick time pay benefits, failure to
26 provide all required meal and rest periods or compensation in lieu thereof, failure to maintain
27 accurate records, failure to timely pay wages, and failure to provide accurate itemized wage
28 statements, all in violation of the Labor Code and Wage Orders, constitutes an unlawful, unfair or

1 fraudulent business act or practice, in violation of Business & Professions Code sections 17200, et
2 seq.

3 56. Pursuant to Business & Professions Code section 17203, Plaintiffs and the Class
4 Members are entitled to restitution of all unpaid wages and other sums owed, plus attorney's fees
5 and costs, in an amount to be proved at trial.

6 **TENTH CAUSE OF ACTION**

7 **(Violation of Private Attorneys General Act of 2004 – Labor Code §§ 2698, et seq.)**

8 57. Plaintiffs incorporate all preceding paragraphs as if fully alleged herein.

9 58. Plaintiffs gave timely written notice by certified mail to Defendants of the violations of
10 various provisions of the California Labor Code as alleged in this complaint and filed notice of the
11 violations online with the Labor and Workforce Development Agency ("LWDA").

12 59. The LWDA did not provide notice of its intention to investigate Defendants' violations
13 after expiration of the 65-day waiting time period, or at any time. Defendants also failed to cure
14 within the time allotted by PAGA. Consequently, Plaintiff's right to file the instant lawsuit then duly
15 accrued.

16 60. Plaintiffs are "Aggrieved Employee(s)" under PAGA, as they were employed by
17 Defendants during the applicable statutory limitations period and suffered one or more of the Labor
18 Code violations set forth herein. Accordingly, Plaintiffs seek to recover on behalf of themselves and
19 all other current and former Aggrieved Employees, the civil penalties provided by PAGA, plus
20 reasonable attorney's fees and costs.

21 61. Plaintiffs bring this action on behalf of themselves and all similarly situated
22 aggrieved employees. **The other Aggrieved Employees shall be defined as follows:** "All hourly
23 paid, non-exempt workers who were directly employed by OS4LABOR in California at any time
24 within the one year and sixty-five days prior to the filing of this Complaint;"

25 62. Plaintiffs seek to recover the PAGA civil penalties through a representative action
26 permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.4th
27 969. Therefore, class certification of the PAGA claims is not required.

28 63. Therefore, under the provisions of PAGA and Labor Code sections 201-202, 203, 204,

210, 225.5, 226, 226.3, 226.7, 245, 246, 247, 248, 248.5, 256, 510 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2699, and all applicable Wage Orders as well as all interpretations of these laws by California Courts and administrative bodies, as well as any other law that is enforceable through PAGA, Defendants are liable for the following penalties:

- a. All statutorily-specified penalties recoverable under PAGA as enumerated in therelevant California Labor Code provisions listed herein only if permitted by the PAGA statute; and
- b. Default PAGA penalties for any violation of the enumerated list of Labor Code violations without a civil penalty recoverable under the PAGA, all in the default amounts provided by Labor Code section 2699(f).
- c. The proper measure of penalties under PAGA is the number of violations, whether those violations were committed as against Plaintiffs or any Aggrieved Employee, whether a party to this action or not.

64. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws, Plaintiffs are entitled to recover civil penalties, costs, and attorney's fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief and judgment as follows on behalf of themselves, the Class Members and Aggrieved Employees:

1. For an order that the action, be certified as a class action;
2. For an order that Plaintiffs, be appointed class representatives;
3. For an order that counsel for Plaintiffs be appointed class counsel;
4. For compensatory damages according to proof;
5. For an order requiring Defendants to make restitution of all amounts wrongfully withheld from Plaintiffs and the class;
6. For pre-judgment interest as permitted by law;
7. For civil penalties according to proof, including PAGA penalties;

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DEMAND FOR JURY TRIAL

Plaintiffs, JESUS LOPEZ and CHRISTIAN JUAREZ, demand a trial by jury on all claims so triable.

Dated: December 23, 2020

CROSNER LEGAL, P.C.



Michael Crosner

Zachary Crosner

Blake Jones

Attorneys for Plaintiffs

JESUS LOPEZ and CHRISTIAN JUAREZ