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10 **SUPERIOR COURT OF CALIFORNIA**

11 **COUNTY OF LOS ANGELES – CENTRAL DISTRICT, UNLIMITED JURISDICTION**

12
 13 MARCO CALVILLO, an individual;
 14 OCTAVIO RIO CARRANZA, an individual;
 15 and
 All Aggrieved Employees,

16 Plaintiffs,

17 v.

18 UNIX CONSTRUCTION, INC., a California
 19 corporation;
 ARCHIPRO CONSTRUCTION, INC., a
 20 California corporation;
 YOUNG SOOK JUNG, an individual;
 21 EUI KYOUNG HWANG, an individual;
 HO TAE SEOK, an individual; and
 22 DOES 1-20, inclusive,

23 Defendants.

Case No.: 20STCV48935

[Assigned to Hon. Michael P. Linfield; Dept. 34]

FIRST AMENDED COMPLAINT FOR DAMAGES

1. Failure to Pay Regular and Minimum Wages (Labor Code §§ 1194, 1197, 1771, 221; IWC Wage Order 16);
2. Failure to Pay Overtime Wages (Labor Code §§ 510, 1194, 221; IWC Wage Order 16);
3. Failure to Provide Meal Periods (Labor Code §§ 226.7, 512; IWC Wage Order 16);
4. Failure to Provide Rest Periods (Labor Code § 226.7; IWC Wage Order 16);
5. Failure to Provide Itemized Accurate Wage Statements (Labor Code § 226; IWC Wage Order 16);
6. Failure to Provide Employment Records (Labor Code §§ 226(e) and 1198.5)
7. Continuing Wages Penalty (Labor Code §§ 201, 202, 203, 203);
8. Unfair Competition (Business and Professions Code § 17200 et seq.)
9. Civil Penalties Pursuant to Labor Code Private Attorneys General Act of 2004 (Labor Code § 2698 et seq.)

DEMAND FOR JURY TRIAL

1 Plaintiffs Marco Calvillo and Octavio Rio Carranza allege as follows:

2 **NATURE OF ACTION**

3 1. Plaintiff MARCO CALVILLO (“Calvillo”) on behalf of himself and all other
4 aggrieved employees, and Plaintiff OCTAVIO RIO CARRANZA on behalf of himself, bring
5 this action against Defendants UNIX CONSTRUCTION, INC., ARCHIPRO
6 CONSTRUCTION, INC., YOUNG SOOK JUNG, EUI KYOUNG HWANG, HO TAE SEOK
7 and DOES 1 to 20 inclusive, (collectively referred to hereafter as “Defendants”), seeking
8 damages and penalties for failure to pay regular and minimum wages, failure to pay overtime
9 compensation, failure to provide meal breaks, failure to authorize and permit rest periods,
10 failure to provide accurate wage statements, failure to provide employment records, failure to
11 pay all wages due upon termination, and penalties under the Private Attorneys General Act of
12 2004.

13 **PRELIMINARY ALLEGATIONS**

14 2. At all times herein mentioned Plaintiff MARCO CALVILLO, an individual,
15 (hereafter “Plaintiff CALVILLO”) resided in the County of Orange, within the State of
16 California.

17 3. At all times herein mentioned Plaintiff OCTAVIO RIO CARRANZA, an
18 individual, (hereafter “Plaintiff CARRANZA”) resided in the County of Los Angeles, within
19 the State of California.

20 4. Defendant UNIX CONSTRUCTION, INC. is a California corporation.
21 Defendant UNIX CONSTRUCTION, INC.’s registered address is located in Los Angeles
22 County, California. At all times relevant to this complaint, Defendant UNIX
23 CONSTRUCTION, INC. performed construction services in Los Angeles County.

24 5. Defendant ARCHIPRO CONSTRUCTION, INC. is a California corporation.
25 Defendant ARCHIPRO CONSTRUCTION, INC.’s registered address is located in Orange
26 County, California. At all times relevant to this complaint, Defendant ARCHIPRO
27 CONSTRUCTION, INC. performed construction services in Los Angeles County and Orange
28 County.

1 6. Plaintiffs are informed, believe, and thereon allege, that at all times herein
2 mentioned Defendant YOUNG SOOK JUNG was an individual who resides in the County of
3 Los Angeles, California.

4 7. Plaintiffs are informed, believe, and thereon allege, that at all times herein
5 mentioned Defendant EUI KYOUNG HWANG was an individual who resides in the County of
6 Orange, California.

7 8. Plaintiffs are informed, believe, and thereon allege, that at all times herein
8 mentioned Defendant HO TAE SEOK was an individual who resides in the County of Orange,
9 California

10 9. The true names and capacities of the Defendants sued herein as DOES 1 through
11 20 are unknown to the Plaintiffs, and therefore Plaintiffs sue these Defendants by such
12 fictitious names. Plaintiffs will amend this Complaint to allege their true names and capacities
13 when ascertained. Plaintiffs are informed and believe and, on that basis allege, that each of the
14 fictitiously named Defendants are responsible for the occurrences and injuries to Plaintiffs as
15 herein alleged. Each reference in this Complaint to “Defendant,” “Defendants,” or a
16 specifically named Defendant refers to, and includes all Defendants sued under fictitious
17 names.

18 10. Plaintiffs are informed, believe, and thereon allege, that at all times herein
19 mentioned, each of the Defendants sued herein were the agents and employees of each of the
20 remaining Defendants and were at all times acting within the purpose and scope of such
21 agency and employment.

22 11. Plaintiffs are informed, believe, and thereon allege, that Defendant YOUNG
23 SOOK JUNG is the owner and/or director and/or officer of Defendant UNIX
24 CONSTRUCTION, INC. and acted on behalf of Defendant UNIX CONSTRUCTION, INC. at
25 all times relevant to this complaint. Accordingly, Defendant YOUNG SOOK JUNG is
26 individually liable for damages alleged in this action pursuant to Labor Code § 558.1 during all
27 time periods said statute was legally operative.

28 12. Plaintiffs are informed, believe, and thereon allege, that Defendants EUI

1 KYOUNG HWANG and HO TAE SEOK are the owners and/or directors and/or officers of
2 Defendant ARCHIPRO CONSTRUCTION, INC. and acted on behalf of ARCHIPRO
3 CONSTRUCTION, INC. at all times relevant to this complaint. Accordingly, Defendants EUI
4 KYOUNG HWANG and HO TAE SEOK are individually liable for damages alleged in this
5 action pursuant to Labor Code Section 558.1 during all time periods said statute was legally
6 operative.

7 13. Between approximately January 2019 until December 31, 2019, Plaintiff
8 CALVILLO was employed and worked for Defendants UNIX CONSTRUCTION, INC. and
9 ARCHIPRO CONSTRUCTION, INC. as a welder or metal worker.

10 14. Between approximately January 2017 until February 2020, Plaintiff
11 CARRANZA was employed and worked for Defendants UNIX CONSTRUCTION, INC. and
12 ARCHIPRO CONSTRUCTION, INC. as a welder or metal worker.

13 15. During the periods relevant to this action, Defendants UNIX
14 CONSTRUCTION, INC. and YOUNG SOOK JUNG, on the one hand, and Defendants
15 ARCHIPRO CONSTRUCTION, INC., EUI KYOUNG HWANG and HO TAE SEOK on the
16 other hand, conducted their businesses in association with each another and shared control over
17 the wages, hours and working conditions of Plaintiff CALVILLO, Plaintiff CARRANZA, and
18 other aggrieved employees.

19 16. On multiple occasions during Plaintiff CALVILLO's employment, Plaintiff
20 CALVILLO and other aggrieved employees performed work for both Defendant UNIX
21 CONSTRUCTION, INC. and Defendant ARCHIPRO CONSTRUCTION, INC. at different
22 times during the same work week. On such occasions, Defendant UNIX CONSTRUCTION,
23 INC. instructed Plaintiff CALVILLO and other aggrieved employees to perform metal work
24 and other work duties for Defendant ARCHIPRO CONSTRUCTION, INC. and instructed
25 Plaintiff CALVILLO and other aggrieved employees when and where to carry out such work.

26 17. On multiple occasions during Plaintiff CARRANZA's employment, Plaintiff
27 CARRANZA performed work for both Defendant UNIX CONSTRUCTION, INC. and
28 Defendant ARCHIPRO CONSTRUCTION, INC. at different times during the same work

1 week. On such occasions, Defendant UNIX CONSTRUCTION, INC. instructed Plaintiff
2 CARRANZA to perform metal work and other work duties for Defendant ARCHIPRO
3 CONSTRUCTION, INC. and instructed Plaintiff CARRANZA when and where to carry out
4 such work.

5 18. During the period of Plaintiffs' employment, Plaintiffs were paid via pay checks
6 issued by both UNIX CONSTRUCTION, INC. and ARCHIPRO CONSTRUCTION, INC., and
7 were also paid by cash.

8 19. During their employment by Defendants, Plaintiffs were issued pay stubs on
9 multiple occasions which identified Defendant ARCHIPRO CONSTRUCTION, INC. as their
10 legal employer.

11 20. Defendant UNIX CONSTRUCTION, INC. never issued wage statements to
12 Plaintiffs.

13 21. Defendants failed to accurately record the hours worked by Plaintiffs; failed to
14 pay Plaintiffs all regular and overtime wages owed to them; failed to provide Plaintiffs with
15 their legally mandated meal breaks and rest periods; and failed to pay all wages owed to
16 Plaintiffs upon termination of their employment.

17 22. At all times relevant to this action, Defendants UNIX CONSTRUCTION, INC.
18 and ARCHIPRO CONSTRUCTION, INC. were the joint employers of Plaintiffs and are
19 accordingly jointly and severally liable for all wages and penalties owed to Plaintiffs.

20 23. On or about May 21, 2020, pursuant to Labor Code § 2699.3, Plaintiff
21 CALVILLO filed notice with California's Labor and Workforce Development Agency
22 ("LWDA") and posted by certified mail to Defendants notice of the specific provisions of the
23 Labor Code alleged to have been violated, including the facts and theories to support the
24 violations.

25 24. The LWDA has failed to notify Plaintiff CALVILLO of its intent to investigate
26 these penalty claims within sixty-five (65) days.

1 25. Thus, Plaintiff CALVILLO has exhausted his administrative remedies under
2 PAGA's Labor Code § 2699.3(a)(2)(A) and may pursue PAGA civil penalties in a
3 representative capacity as a matter of right.

4 **JURISDICTION AND VENUE**

5 26. Pursuant to Article VI, §10 of the California Constitution, subject matter
6 jurisdiction is proper in the Superior Court of California, County of Los Angeles, State of
7 California.

8 27. Pursuant to §§395 and 395.5 of the California Code of Civil Procedure, venue is
9 proper in the Superior Court of California for the County of Los Angeles, State of California,
10 because this is where Plaintiffs were employed, it is where the wrongful misconduct alleged
11 occurred, and it is where Defendants do business.

12 **FIRST CAUSE OF ACTION**

13 **FAILURE TO PAY REGULAR AND MINIMUM WAGES**

14 **[Cal. Labor Code §§ 1194, 1197, 1771, 221, 558.1, and IWC Wage Order 16]**

15 **(Plaintiffs CALVILLO and CARRANZA Against All Defendants)**

16 28. Plaintiffs re-allege and incorporate into this cause of action each of the
17 preceding paragraphs.

18 29. During each and every pay period ending between approximately January 6,
19 2019 and January 5, 2020, Plaintiff CALVILLO was required, suffered and permitted to work
20 regular and overtime hours by Defendants.

21 30. During each and every pay period ending between approximately January 1,
22 2017 and February 15, 2020, Plaintiff CARRANZA was required, suffered and permitted to
23 work regular and overtime hours by Defendants.

24 31. Defendants failed to accurately record the actual hours worked by Plaintiffs on
25 each date they performed work for Defendants.

26 32. Defendants failed to compensate Plaintiffs at the applicable minimum wage rate
27 for all hours Plaintiffs worked.
28

1 33. Defendants failed to compensate Plaintiffs at their regular rate of pay for all
2 hours worked on non-prevailing wage work.

3 34. Defendants failed to compensate Plaintiffs at the prevailing wage rate of pay for
4 all hours Plaintiffs worked on public works projects.

5 35. In violation of Labor Code §221, Defendants collected or received from
6 Plaintiffs part of the wages theretofore paid by Defendants to Plaintiffs.

7 36. Based upon the days and hours Plaintiffs worked during said time period,
8 Defendants, and each of them, are liable to Plaintiffs for unpaid minimum and regular wages.

9 37. In addition, pursuant to Labor Code § 1194.2, Plaintiffs are entitled to recover
10 liquidated damages in an amount equal to the minimum wages unlawfully unpaid.

11 38. In addition, Defendants are liable to Plaintiffs for reasonable attorney's fees,
12 which are hereby demanded, in an amount to be proved according to law.

13 39. In addition, Defendants are liable to Plaintiffs for costs of suit.

14 40. Defendant YOUNG SOOK JUNG, while acting as owner, officer, director and
15 managing agent of Defendant UNIX CONSTRUCTION, INC. caused said corporation to
16 violate provisions of California Industrial Welfare Commission Wage Order 16 as well as
17 California Labor Code § 1194, 1771, and 221 with respect to Plaintiffs. Defendants EUI
18 KYOUNG HWANG and HO TAE SEOK, while acting as owners, officers, directors and
19 managing agents of Defendant ARCHIPRO CONSTRUCTION, INC. caused said corporation
20 to violate provisions of California Industrial Welfare Commission Wage Order 16 as well as
21 California Labor Code § 1194, 1771, and 221 with respect to Plaintiffs. Therefore, pursuant to
22 Labor Code § 558.1, Defendants YOUNG SOOK JUNG, EUI KYOUNG HWANG and HO
23 TAE SEOK are jointly and severally liable along with Defendants UNIX CONSTRUCTION,
24 INC. and ARCHIPRO CONSTRUCTION, INC. for unpaid regular and minimum wages,
25 liquidated damages, attorney's fees, prejudgment interest and costs, pursuant to California
26 Labor Code § 1194.

27 //

28 //

FAILURE TO PAY OVERTIME WAGES

[Cal. Labor Code §§ 510; 1194; 1771; 558.1, and IWC Wage Order 16]

(Plaintiffs CALVILLO and CARRANZA Against All Defendants)

41. Plaintiffs re-allege and incorporate into this cause of action each of the preceding paragraphs.

42. During each and every pay period ending between approximately January 6, 2019 and January 5, 2020, Plaintiff CALVILLO was required, suffered and permitted to work regular and overtime hours by Defendants.

43. During each and every pay period ending between approximately January 1, 2017 and February 15, 2020, Plaintiff CARRANZA was required, suffered and permitted to work regular and overtime hours by Defendants.

44. Based upon the days and hours they worked during said time period, pursuant to California Labor Code § 1194, Defendants, and each of them, did not pay Plaintiffs all overtime wages owed and are liable to Plaintiffs for unpaid overtime compensation.

45. Pursuant to Labor Code § 204, Plaintiffs were entitled to receive all wages owing, on designated days, no less frequently than twice a month. Because Defendants failed timely to pay Plaintiffs all compensation legally owing, including overtime compensation, Defendants are liable for prejudgment interest in an amount to be proved at trial.

46. In addition, Defendants are liable to Plaintiffs for reasonable attorney's fees, which are hereby demanded, in an amount to be proved according to law.

47. In addition, Defendants are liable to Plaintiffs for costs of suit.

48. Defendant YOUNG SOOK JUNG, while acting as owner, officer, director and managing agent of Defendant UNIX CONSTRUCTION, INC. caused said corporation to violate provisions of California Industrial Welfare Commission Wage Order 16 as well as California Labor Code § 1194 with respect to Plaintiffs. Defendants EUI KYOUNG HWANG and HO TAE SEOK, while acting as owners, officers, directors and managing agents of Defendant ARCHIPRO CONSTRUCTION, INC. caused said corporation to violate provisions

1 of California Industrial Welfare Commission Wage Order 16 as well as California Labor Code
2 § 1194 with respect to Plaintiffs. Therefore, pursuant to Labor Code § 558.1, Defendants
3 YOUNG SOOK JUNG, EUI KYOUNG HWANG and HO TAE SEOK are jointly and
4 severally liable along with Defendants UNIX CONSTRUCTION, INC. and ARCHIPRO
5 CONSTRUCTION, INC. for unpaid overtime wages, attorney's fees, prejudgment interest and
6 costs, pursuant to California Labor Code § 1194.

7 **THIRD CAUSE OF ACTION**

8 **FAILURE TO PROVIDE MEAL PERIODS**

9 **[Cal. Labor Code §§ 226.7, 512, 558.1, and IWC Wage Order No. 16]**

10 **(Plaintiffs CALVILLO and CARRANZA Against All Defendants)**

11 49. Plaintiffs re-allege and incorporate into this cause of action each of the
12 preceding paragraphs.

13 50. Pursuant to Labor Code § 512, Labor Code § 226.7, and California Industrial
14 Welfare Commission Wage Order 16, Plaintiffs were, each workday, entitled to one off-duty
15 meal period (no less than 30 minutes in duration) for every work period exceeding 5 hours.
16 Defendants, and each of them, contrary to law, did not provide Plaintiffs the off-duty meal
17 periods to which they were entitled and also did not pay Plaintiffs one extra hour of pay for
18 each day they did not receive all legally required meal periods.

19 51. As a result, Defendants, and each of them, are liable for unpaid compensation
20 pursuant to California Labor Code § 226.7.

21 52. Pursuant to Labor Code § 204, Plaintiffs were entitled to receive all wages
22 owing, on designated days, no less frequently than twice a month. Because Defendants failed
23 timely to pay Plaintiffs all compensation legally owing, including compensation for meal
24 periods not received, Defendants are liable for prejudgment interest in an amount to be proved
25 at trial.

26 53. Defendant YOUNG SOOK JUNG, while acting as owner, officer, director and
27 managing agent of Defendant UNIX CONSTRUCTION, INC. caused said corporation to
28 violate provisions of California Industrial Welfare Commission Wage Order 16 as well as

1 California Labor Code §§ 512 and 226.7 with respect to Plaintiffs. Defendants EUI KYOUNG
2 HWANG and HO TAE SEOK, while acting as owners, officers, directors and managing agents
3 of Defendant ARCHIPRO CONSTRUCTION, INC. caused said corporation to violate
4 provisions of California Industrial Welfare Commission Wage Order 16 as well as California
5 Labor Code §§ 512 and 226.7 with respect to Plaintiffs. Therefore, pursuant to Labor Code §
6 558.1, Defendants YOUNG SOOK JUNG, EUI KYOUNG HWANG and HO TAE SEOK are
7 jointly and severally liable along with Defendants UNIX CONSTRUCTION, INC. and
8 ARCHIPRO CONSTRUCTION, INC. for meal period premium pay, damages, attorney's fees,
9 prejudgment interest and costs, pursuant to California Labor Code §§ 512 and 226.7.

10 **FOURTH CAUSE OF ACTION**

11 **FAILURE TO AUTHORIZE OR PERMIT REST BREAKS**

12 **[CAL. LAB. CODE §§ 226.7, 558.1, and IWC Wage Order No. 16]**

13 **(Plaintiffs CALVILLO and CARRANZA Against All Defendants)**

14 54. Plaintiffs re-allege and incorporate into this cause of action each of the
15 preceding paragraphs.

16 55. Pursuant to Labor Code § 226.7, and California Industrial Welfare Commission
17 Wage Order 16, Plaintiffs were, each workday, entitled to one off-duty rest period (no less than
18 10 minutes in duration) for every 4 hours worked, or major fraction thereof. Defendants, and
19 each of them, contrary to law, did not authorize or permit Plaintiffs to take the off-duty rest
20 periods to which they were entitled and also did not pay Plaintiffs one extra hour of pay for
21 each day they were not authorized or permitted to take all legally required rest periods.

22 56. As a result, Defendants, and each of them, are liable for unpaid compensation
23 pursuant to Labor Code § 226.7.

24 57. Pursuant to Labor Code § 204, Plaintiffs were entitled to receive all wages
25 owing, on designated days, no less frequently than twice a month. Because Defendants failed
26 timely to pay Plaintiffs all compensation legally owing, including compensation for rest
27 periods not received, Defendants are liable for prejudgment interest in an amount to be proved
28 at trial.

1 58. Defendant YOUNG SOOK JUNG, while acting as owner, officer, director and
2 managing agent of Defendant UNIX CONSTRUCTION, INC. caused said corporation to
3 violate provisions of California Industrial Welfare Commission Wage Order 16 as well as
4 California Labor Code §§ 512 and 226.7 with respect to Plaintiffs. Defendants EUI KYOUNG
5 HWANG and HO TAE SEOK, while acting as owners, officers, directors and managing agents
6 of Defendant ARCHIPRO CONSTRUCTION, INC. caused said corporation to violate
7 provisions of California Industrial Welfare Commission Wage Order 16 as well as California
8 Labor Code §§ 512 and 226.7 with respect to Plaintiffs. Therefore, pursuant to Labor Code §
9 558.1, Defendants YOUNG SOOK JUNG, EUI KYOUNG HWANG and HO TAE SEOK are
10 jointly and severally liable along with Defendants UNIX CONSTRUCTION, INC. and
11 ARCHIPRO CONSTRUCTION, INC. for rest period premium pay, damages, attorney's fees,
12 prejudgment interest and costs, pursuant to California Labor Code §§ 512 and 226.7.

13 **FIFTH CAUSE OF ACTION**

14 **FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS**

15 **[Cal. Labor Code §§ 226, 558.1, and IWC Wage Order 16]**

16 **(Plaintiffs CALVILLO and CARRANZA Against All Defendants)**

17 59. Plaintiffs re-allege and incorporate into this cause of action each of the
18 preceding paragraphs.

19 60. Defendants were obligated by California Labor Code § 226, and California
20 Industrial Welfare Commission Wage Order 16, to keep accurate records of Plaintiffs' days
21 and hours worked and to provide Plaintiffs, each time they were paid, an accurate statement of
22 (among other things) the total hours they worked in the applicable pay period and total gross
23 wages paid. Each and every pay period, Defendants knowingly and intentionally failed to
24 provide Plaintiffs with accurate wage statements. As a result, Plaintiffs were denied the
25 accurate wage statements to which they were legally entitled and Plaintiffs cannot promptly
26 and easily determine the exact hours they worked during each pay period. In addition,
27 Plaintiffs will incur costs attempting to obtain information which Defendants should have
28 provided in accurate pay statements.

61. Accordingly, Plaintiffs are entitled to the penalty specified in Labor Code §226(e) in an amount estimated to exceed \$4,000.00.

62. In addition, Defendants are liable to Plaintiffs for reasonable attorney's fees, which are hereby demanded, in an amount to be proved according to law.

63. Defendant YOUNG SOOK JUNG, while acting as owner, officer, director and managing agent of Defendant UNIX CONSTRUCTION, INC. caused said corporation to violate provisions of California Industrial Welfare Commission Wage Order 16 as well as California Labor Code § 226 with respect to Plaintiffs. Defendants EUI KYOUNG HWANG and HO TAE SEOK, while acting as owners, officers, directors and managing agents of Defendant ARCHIPRO CONSTRUCTION, INC. caused said corporation to violate provisions of California Industrial Welfare Commission Wage Order 16 as well as California Labor Code § 226 with respect to Plaintiffs. Therefore, pursuant to Labor Code § 558.1, Defendants YOUNG SOOK JUNG, EUI KYOUNG HWANG and HO TAE SEOK are jointly and severally liable along with Defendants UNIX CONSTRUCTION, INC. and ARCHIPRO CONSTRUCTION, INC. for penalties, attorney's fees, prejudgment interest and costs, pursuant to California Labor Code § 226.

SIXTH CAUSE OF ACTION

FAILURE TO PROVIDE EMPLOYMENT RECORDS

[Cal. Labor Code §§ 226(f) and 1198.5(k)]

**(Plaintiffs CALVILLO and CARRANZA Against Defendants Unix Construction, Inc. and
Young Sook Jung)**

64. Plaintiffs re-allege and incorporate into this cause of action each of the preceding paragraphs.

65. On May 18, 2020, Plaintiff CALVILLO's legal counsel made a written request on his behalf to Defendants UNIX CONSTRUCTION, INC. and YOUNG SOOK JUNG for employment records pursuant to Labor Code §§226(b) and 1198.5. Defendants UNIX CONSTRUCTION, INC. and YOUNG SOOK JUNG did not timely respond to the request and did not provide all responsive records. Pursuant to Labor Code §226(f), Plaintiff CALVILLO

1 is entitled to receive a penalty in the sum of \$750.00 due to Defendants' failure to timely
2 respond to Plaintiff CALVILLO's request for employment records within 21 days of such
3 request pursuant to Labor Code §226(c). Pursuant to Labor Code §1198.5(k), Plaintiff
4 CALVILLO is also entitled to receive a second penalty in the sum of \$750.00 for failure to
5 timely respond to this request within 30 days.

6 66. On October 15, 2020, Plaintiff CARRANZA's legal counsel made a written
7 request on his behalf to Defendants UNIX CONSTRUCTION, INC. and YOUNG SOOK
8 JUNG for employment records pursuant to Labor Code §§226(b) and 1198.5. Defendants
9 UNIX CONSTRUCTION, INC. and YOUNG SOOK JUNG did not respond to the request and
10 did not provide any responsive records. Pursuant to Labor Code §226(f), Plaintiff
11 CARRANZA is entitled to receive a penalty in the sum of \$750.00 due to Defendants' failure
12 to timely respond to Plaintiff CARRANZA's request for employment records within 21 days of
13 such request pursuant to Labor Code §226(c), or at all. Pursuant to Labor Code §1198.5(k),
14 Plaintiff CARRANZA is also entitled to receive a second penalty in the sum of \$750.00 for
15 failure to timely respond to this request within 30 days.

16 67. Plaintiffs are entitled to reasonable attorney's fees, which are hereby demanded,
17 in an amount to be proved according to law.

18 68. In addition, Plaintiffs are entitled to costs of suit.

19 **SEVENTH CAUSE OF ACTION**

20 **CONTINUING WAGES PENALTY**

21 **[Cal. Labor Code §§ 201, 202, 203, and 558.1]**

22 **(Plaintiffs CALVILLO and CARRANZA Against All Defendants)**

23 69. Plaintiffs re-allege and incorporate into this cause of action each of the
24 preceding paragraphs.

25 70. Pursuant to Labor Code § 201 and Labor Code § 202, upon termination of their
26 employment, Plaintiffs were entitled to receive timely payment of all earned wages, including
27 regular wages, overtime compensation and premium compensation for meal and rest periods
28

1 not received. Because Defendants failed to pay such wages, Plaintiffs are entitled to continuing
2 wages set forth in California Labor Code § 203.

3 71. Defendant YOUNG SOOK JUNG, while acting as owner, officer, director and
4 managing agent of Defendant UNIX CONSTRUCTION, INC. caused said corporation to
5 violate provisions of California Industrial Welfare Commission Wage Order 16 as well as
6 California Labor Code §203 with respect to Plaintiffs. Defendants EUI KYOUNG HWANG
7 and HO TAE SEOK, while acting as owners, officers, directors and managing agents of
8 Defendant ARCHIPRO CONSTRUCTION, INC. caused said corporation to violate provisions
9 of California Industrial Welfare Commission Wage Order 16 as well as California Labor Code
10 §203 with respect to Plaintiffs. Therefore, pursuant to Labor Code § 558.1, Defendants
11 YOUNG SOOK JUNG, EUI KYOUNG HWANG and HO TAE SEOK are jointly and
12 severally liable along with Defendants UNIX CONSTRUCTION, INC. and ARCHIPRO
13 CONSTRUCTION, INC. for the continuing wages penalty, attorney's fees, prejudgment
14 interest and costs, pursuant to California Labor Code §203.

15 **EIGHTH CAUSE OF ACTION**

16 **VIOLATIONS OF THE UNFAIR COMPETITION ACT**

17 **[Cal. Bus. & Prof. Code §§ 17200-17208]**

18 **(Plaintiffs CALVILLO and CARRANZA Against All Defendants)**

19 72. Plaintiffs re-allege and incorporate into this cause of action each of the
20 preceding paragraphs.

21 73. Defendants, and each of them, are "persons" as defined by Business and
22 Professions Code § 17201.

23 74. By this cause of action, Plaintiffs seek to enforce important rights affecting the
24 public interest. Plaintiffs sue for their own interests as former employees of the Defendants and
25 as parties harmed by Defendants' unfair business practices.

26 75. Plaintiffs suffered injuries-in-fact and have lost money as a result of
27 Defendants' unfair competition alleged herein.

1 76. Defendants have previously or continue to engage in unlawful, unfair, and/or
2 fraudulent business practices with respect to Plaintiffs and Defendants' other employees in
3 violation of California Business and Professions Code § 17200, et seq. by, inter alia:

- 4 (a) Failing to pay regular and minimum wages;
- 5 (b) Failing to pay legally required overtime premiums;
- 6 (c) Failing to provide legally required meal periods;
- 7 (d) Failing to authorize and permit legally required rest;
- 8 (e) Failing to furnish timely and accurate wage statements;
- 9 (f) Failing to provide employment records;
- 10 (g) Failing to pay all wages due at termination or resignation; and
- 11 (h) Failing to maintain accurate records.

12 77. Defendants, and each of them, in both a corporate and individual capacity, have
13 personally and intentionally participated in, assisted, and/or conspired to commit these
14 unlawful, unfair, and fraudulent business practices.

15 78. Defendants, and each of them, have profited from these unlawful, unfair, and
16 fraudulent business practices at the expense of Plaintiffs and Defendants' other employees, and
17 at the expense of law-abiding businesses and the public at large.

18 79. As a direct and proximate result of Defendants' unfair and unlawful business
19 practices as alleged herein, Plaintiffs have sustained injury and damages, including unpaid
20 minimum wages, unpaid overtime premiums, unpaid meal period premium pay, unpaid rest
21 period premium pay, receipt of inaccurate wage statements, and unpaid waiting time penalties,
22 in an amount to be established at trial.

23 80. Defendants, and each of them, should therefore be ordered to immediately cease
24 from engaging in the unlawful, unfair, and fraudulent conduct alleged herein, and restore as
25 restitution to Plaintiffs those amounts accrued during the relevant claim period, and not
26 otherwise awarded in connection with the previous causes of action:

- 27 (a) Unpaid minimum wages and liquidated damages required by California
28 law, in an amount to be proven at trial;

- 1 (b) Unpaid overtime compensation required by California law, in an amount
2 to be proven at trial;
- 3 (c) Unpaid premium pay for meal periods not provided in accordance with
4 California law, in an amount to be proven at trial;
- 5 (d) Unpaid premium pay for rest periods not authorized or permitted in
6 accordance with California law, in an amount to be proven at trial;
- 7 (e) Penalties for failure to issue accurate wage statements in accordance with
8 California law, in an amount to be proven at trial;
- 9 (f) Waiting time penalties of 30 days wages not received in accordance with
10 California law, in an amount to be proven at trial;

11 81. Plaintiffs seek restitution of wages from all Defendants in an amount to be
12 proven at trial, and an injunction prohibiting Defendants from engaging in the unlawful, unfair,
13 and fraudulent conduct alleged herein.

14 82. In addition, Defendants are jointly and severally liable to Plaintiffs for
15 reasonable attorney's fees and costs, which are respectfully requested, in an amount to be
16 proved according to law.

17 **NINTH CAUSE OF ACTION**

18 **CIVIL PENALTIES UNDER THE**

19 **LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004**

20 **[Cal. Labor Code §§ 558, 558.1, and 2698 ET SEQ.]**

21 **(Plaintiff Calvillo For Himself**

22 **and on Behalf of All Other Aggrieved Employees of**

23 **Defendants Against All Defendants)**

24 83. Plaintiff CALVILLO re-alleges and incorporates into this cause of action each
25 of the preceding paragraphs.

26 84. At all times relevant to this action, Defendants devised, formulated,
27 implemented and enforced the following policies and procedures:
28

- Defendants have failed to pay all aggrieved employees (including Plaintiff CALVILLO) minimum and regular wage compensation (including prevailing wage compensation) for all hours worked.
- Defendants have required, suffered, and permitted all aggrieved employees (including Plaintiff CALVILLO) to work daily and weekly overtime hours and have failed to pay such persons (including Plaintiff CALVILLO) overtime compensation for all overtime hours worked.
- Defendants have failed to provide all aggrieved employees (including Plaintiff CALVILLO) with mandatory meal periods of thirty (30) minutes in duration for every five (5) hours worked.
- Defendants have failed to pay all aggrieved employees (including Plaintiff CALVILLO) premium compensation required by Labor Code § 226.7 for each day those aggrieved employees did not receive a mandatory meal period.
- Defendants have failed to authorize and permit all aggrieved employees (including Plaintiff CALVILLO) to take mandatory rest periods of ten (10) minutes duration for every four (4) hours worked, or major fraction thereof.
- Defendants have failed to pay all aggrieved employees (including Plaintiff CALVILLO) premium compensation required by Labor Code § 226.7 for each day those aggrieved employees did not receive mandatory rest periods.
- Defendants have failed to maintain and retain legitimate time records showing when aggrieved employees (including Plaintiff CALVILLO) started and ended work periods and meal periods, as required by Industrial Welfare Commission Wage Order 16-2001 § 6 (a)(1).
- Defendants have failed to provide all aggrieved employees (including Plaintiff CALVILLO) complete and accurate pay statements required by Labor Code § 226 each time they were paid.

- Defendants have failed to pay penalties to all aggrieved employees who have separated from their employment with Defendants (including Plaintiff CALVILLO) in the form of continued compensation up to thirty (30) workdays for willfully failing to pay compensation promptly upon discharge or resignation as required by Labor Code § 203.

85. Through their policies, Defendants repeatedly violated Labor Code Section 201 (which requires employers to pay discharged employees the full amount of all wages owing at the time of termination), Labor Code Sections 202 (which requires employers to pay employees who quit the full amount of all wages owing within 72 hours of termination), Labor Code Section 203 (requiring payment of 30 days of continuing wages when employees are not paid all wages owing timely following termination of employment), Labor Code Section 204 (requiring employers to pay all wages owing no less frequently than twice a month), Labor Code Section 206 (requiring employers to pay unconditionally all wages owing), Labor Code Section 208 (requiring employers to pay at the place of discharge all wages owing), Labor Code Section 226 (requiring employers to provide employees accurate pay statements accurately stating (among other things) the total hours worked and total wages paid during the applicable pay period each and every time wages are paid, Labor code Section 226.7 (requiring employers to pay premium compensation to employees not provided off-duty meal periods), Labor code Section 226.7 (requiring employers to pay premium compensation to employees not provided off-duty rest periods), Labor Code Section 510 (requiring employers to pay overtime compensation at legally mandated rates for all hours worked in excess of 8 hours in a work day and hours worked in excess of 40 hours in a workweek), Labor Code Section 512 (requiring employers to provide employees off-duty 30 minute meal periods every five hours worked), and Labor Code Section 558 (requiring employers to adhere to statutes and California Industrial Welfare Commission Wage Order requirements dealing with the payment of overtime compensation, meal periods, rest periods and record-keeping), Labor Code § 1771 (requiring employers to pay prevailing wage rate for all hours worked on public works projects), Labor Code § 1174(d) (requiring employers to keep complete and accurate payroll

1 records), Labor Code § 1198 (requiring employers to comply with IWC Wage Order 16-2001)
2 and Labor Code § 1199 (requiring employers to comply with IWC Wage Order 16-2001).

3 86. On May 21, 2020, pursuant to California Labor Code § 2699.3, Plaintiff
4 CALVILLO's legal counsel provided the California Labor and Workforce Development
5 Agency ("LWDA") written notice of the facts and theories alleged herein. Said notice was
6 submitted to the LWDA via the agency's online submission system at www.dir.ca.gov and
7 resulted in the generation of the following case number: LWDACM787509-20. Plaintiff
8 CALVILLO's counsel sent the requisite filing fee of \$75.00 to the California Labor and
9 Workforce Development Agency Accounting Unit on May 21, 2020. Plaintiff CALVILLO's
10 counsel also served a copy of the notice by certified mail postmarked on May 21, 2020, to
11 Defendants UNIX CONSTRUCTION, INC., ARCHIPRO CONSTRUCTION, INC., YOUNG
12 SOOK JUNG, EUI KYOUNG HWANG, HO TAE SEOK.

13 87. The LWDA has not responded to the notification and thus has not provided
14 notice that it intends to investigate the violations alleged therein.

15 88. Pursuant to Labor Code Section 2699, Plaintiff CALVILLO is entitled to
16 recover civil penalties on behalf of himself and all other aggrieved employees of Defendants,
17 for each and every pay period in which a Labor Code violation occurred.

18 89. In addition, Plaintiff Calvillo is entitled to reasonable attorney's fees and costs
19 pursuant to Labor Code §2699(g).

20 **PRAYER**

21 WHEREFORE Plaintiffs pray judgment be entered against Defendants, and each of them,
22 as follows:

23 **ON THE FIRST CAUSE OF ACTION**

- 24 1. For unpaid wage compensation pursuant to California Labor Code § 1194 in an
25 amount to be proven at trial;
- 26 2. For liquidated damages equal to unpaid minimum wage pursuant to Labor Code
27 1194.2;
- 28 3. For attorneys fees, costs, and interest; and

ON THE SECOND CAUSE OF ACTION

4. For unpaid overtime compensation pursuant to California Labor Code § 1194 in an amount to be proven at trial;
5. For restitution of unpaid overtime compensation owing pursuant to California law in an amount to be proven at trial;
6. For attorney's fees, costs, and interest;

ON THE THIRD CAUSE OF ACTION

7. For compensation for meal periods not received pursuant to Labor Code § 226.7 in an amount to be proven at trial;
8. For restitution of unpaid compensation for meal periods not provided pursuant to California law in an amount to be proven at trial;

ON THE FOURTH CAUSE OF ACTION

9. For compensation for rest periods not received pursuant to Labor Code § 226.7 in an amount to be proven at trial;
10. For restitution of unpaid compensation for rest periods not authorized or permitted pursuant to California law in an amount to be proven at trial;

ON THE FIFTH CAUSE OF ACTION

11. For the penalty specified in Labor Code § 226(e) in an amount to be proven at trial of not less than \$4,000.00;
12. For attorney's fees, costs, and interest;

ON THE SIXTH CAUSE OF ACTION

13. For the penalty specified in Labor Code § 226(f) in the sum of \$750;
14. For the penalty specified in Labor Code § 1198.5(f) in the sum of \$750;
15. For attorney's fees, costs, and interest;

ON THE SEVENTH CAUSE OF ACTION

16. For the penalty specified in Labor Code § 203 in an amount to be proven at trial;

ON THE EIGHTH CAUSE OF ACTION

1 17. For restitution of wages under Business & Professions Code §§ 17200 et seq. in
2 an amount according to proof at trial;

3 18. For an order enjoining Defendants from further unfair and unlawful business
4 practices in violation of Business & Professions Code §§ 17200 et seq.;

5 **ON THE NINTH CAUSE OF ACTION**

6 19. For civil penalties pursuant to Labor Code § 2699, plus all unpaid compensation
7 owing, and reasonable attorney's fees and costs, in an amount according to proof
8 at trial;

9 **ON ALL CAUSES OF ACTION**

10 20. For attorneys' fees, as allowable by statute;

11 21. For statutory penalties under Labor Code § 1199;

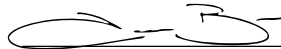
12 22. For pre-judgment interest according to proof and as allowable by statute;

13 23. For costs of suit incurred; and

14 24. For such further relief as the Court deems proper.

15
16 Dated: 02/12/2021

THE BYRNE LAW GROUP
THE LAW OFFICE OF NINA BAUMLER

17
18 

19 Adrian Byrne
20 Nina Baumler
21 *Attorneys for Plaintiffs*
and All Aggrieved Employees.

22 **DEMAND FOR JURY TRIAL**

23 Plaintiff hereby demands a trial by jury.

24 Dated: 02/12/2021

THE BYRNE LAW GROUP
LAW OFFICE OF NINA BAUMLER

25
26 

27 Adrian Byrne
28 Nina Baumler
Attorneys for Plaintiffs
and All Aggrieved Employees.