

2 Randall B. Aiman-Smith #124599
3 Reed W.L. Marcy #191531
4 Hallie Von Rock #233152
5 Carey A. James #269270
6 7677 Oakport St. Suite 1150
7 Oakland, CA 94621
8 T 510.817.2711
F 510.562.6830
ras@asmlawyers.com
rwlm@asmlawyers.com
hvr@asmlawyers.com
caj@asmlawyers.com

9 Attorneys for Plaintiffs

10 UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 MOHAMMED RAHMAN, individually)
13 and on behalf of all others similarly)
situated,)

14 Plaintiffs,)

15 v.)

16 GATE GOURMET, INC.,)
17 GATEGROUP U.S. HOLDING, INC.,)
and DOES 1-10, inclusive,)

18 Defendants.)
19)
20)
21)
22)
23)
24)
25)
26)
27)
28)

Case No. 4:20-cv-03047-DMR

FIRST AMENDED COMPLAINT FOR:

1. **FAILURE TO PAY WAGES FOR ALL HOURS WORKED (Lab.C. §§ 1194, 1194.2, 1197; IWC Wage Order No. 5, § 4(A));**
2. **FAILURE TO PAY OVERTIME WAGES (Lab.C. §§ 510, 1194; IWC Wage Order No. 5, § 3(A)(1));**
3. **FAILURE TO PROVIDE MEAL PERIODS (Lab.C. §§ 226.7, 512; IWC Wage Order No. 5, § 11);**
4. **FAILURE TO FURNISH ACCURATE WAGE STATEMENTS (Lab.C. § 226);**
5. **WAITING TIME PENALTIES (Lab.C. §§ 201, 202, 203);**
6. **UNFAIR BUSINESS PRACTICES (Bus. & Prof. Code § 17200, et seq.);**
7. **INJUNCTION**
8. **PENALTIES UNDER PAGA**

CLASS ACTION

DEMAND FOR JURY TRIAL

1 Mohammed Rahman (“Named Plaintiff”) is informed and believes and thereupon
2 alleges the following:

3 **I. INTRODUCTION**

4 1. Named Plaintiff brings these claims, individually, on behalf of the California
5 Labor and Workforce Development Agency (“LWDA”), and as a class action under Federal
6 Rule of Civil Procedure 23, against defendants Gate Gourmet, Inc. (“Gate Gourmet”) and
7 Gategroup U.S. Holding, Inc. (“Gategroup”) (Gate Gourmet and Gategroup together,
8 “Defendants”).

9 2. Named Plaintiff brings Causes of Action One through Seven as class action
10 claims pursuant to Federal Rule of Civil Procedure 23.¹ These claims are asserted by Named
11 Plaintiff in his capacity as class action representative on behalf of all similarly situated persons
12 (the “Class”). The Class consists of all individuals employed at any Gate Gourmet facility in
13 California as a non-exempt employee at any time during the Class Period. The Class Period is
14 designated as the period from 4 years prior to the filing of this action through the trial date.

15 3. Named Plaintiff brings Cause of Action Eight on behalf of the California Labor
16 and Workforce Development Agency (“LWDA”) pursuant to the Private Attorneys General
17 Act of 2004 (“PAGA”) to collect civil penalties arising from Defendants’ labor law violations
18 committed against all Aggrieved Employees. The Aggrieved Employees include all
19 individuals employed at any Gate Gourmet facility in California as a non-exempt employee at
20 any time during the PAGA Period. The PAGA Period is designated as the period from May 5,
21 2019 through the trial date.

22 4. As used herein, “Plaintiffs” means Named Plaintiff, all members of the Class,
23 and all Aggrieved Employees.

24 5. Plaintiffs have been injured by Defendants’ failure to pay wages, including
25 minimum wages, for all hours worked; failure to pay overtime wages; failure to provide lawful
26 meal periods; failure to furnish accurate wage statements; failure to pay all wages due at
27 _____

28 ¹ Named Plaintiff also brings Cause of Action Seven as an Individual.

1 termination of employment; and other unfair and unlawful business practices as described
2 herein.

3 6. For these injuries, Plaintiffs seek damages and penalties, as well as interest,
4 attorney's fees, costs, and injunctive relief, all under California law, including: California
5 Labor Code §§ 201, 202, 203, 226, 226.7, 510, 512, 1194, 1194.2, 1197, and 2699; IWC Wage
6 Order No. 5, §§ 3(A)(1), 4(A), and 11; California Code of Civil Procedure § 1021.5; and
7 California Business & Professions Code § 17200, *et seq.*

8 7. All violations of California law described herein have been ongoing for at least
9 four years, are continuing at present, and will continue unless and until enjoined by this Court.

10 8. Defendants knowingly and intentionally engaged in the conduct complained of
11 herein, and Defendants acted as alleged herein in willful and knowing violation of the law.

12 **II. PARTIES**

13 9. Defendant Gate Gourmet, Inc. is a Delaware Corporation, registered to and
14 conducting business in California, with its principle place of business in Reston, Virginia.
15 Gate Gourmet provides catering and meal preparation services for airlines and operates in or
16 near airports throughout the United States. Gate Gourmet is a wholly-owned subsidiary of
17 Defendant Gategroup.

18 10. Defendant Gategroup U.S. Holding, Inc. is a Delaware Corporation with its
19 principal place of business in Reston, Virginia. Gategroup owns and controls Defendant Gate
20 Gourmet. Together, Defendants operate all Gate Gourmet facilities in California.

21 11. Named Plaintiff Mohammed Rahman is a resident of Hayward, California. Mr.
22 Rahman worked as a non-exempt employee in the Gate Gourmet facility located in San
23 Francisco International Airport from approximately January 2014 until approximately March
24 2020.

25 12. Plaintiffs are ignorant of the true names or capacities of Defendants named
26 herein as Does 1 through 10, inclusive, and therefore sue these Defendants by these fictitious
27 names. When the names and capacities of these Defendants are ascertained, Plaintiffs will
28 amend this complaint accordingly. Each of the Defendants named herein or designated as a

1 Doe is liable or in some manner legally responsible for the events alleged herein.

2 **III. JURISDICTION AND VENUE**

3 13. This Court has subject matter jurisdiction of this action under the Class Action
4 Fairness Act, 28 U.S.C. § 1332, in that the estimated damages involved in the claims asserted
5 herein will exceed \$5,000,000, and the parties to this action are residents of different states.

6 14. This Court has personal jurisdiction over Defendants because Defendants have
7 significant contacts with California by virtue of their extensive business operations in
8 California, and Defendants have purposefully availed themselves of the privileges and
9 immunities of conducting business in California.

10 15. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because a
11 substantial part of the events or omissions giving rise to the claims asserted herein occurred in
12 this District. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) because
13 Defendants are subject to this Court's personal jurisdiction with respect to this civil action and
14 therefore reside in this District pursuant to 28 U.S.C. § 1391(c)(2). Venue is also proper in this
15 Court pursuant to 28 U.S.C. § 1391(d) because Defendants have sufficient contacts in this
16 District to establish personal jurisdiction in this District.

17 **IV. GENERAL ALLEGATIONS**

18 16. Defendants are leading providers of airline catering and provisioning services.
19 Defendants operate at airports throughout the United States and maintain facilities at numerous
20 California airports. Plaintiffs are or were employed as non-exempt employees at Defendants'
21 facilities throughout California.

22 17. At all times during the Class Period and the PAGA Period, Defendants have
23 failed to pay Plaintiffs for all hours worked by requiring Plaintiffs to submit to mandatory
24 searches of their persons and/or personal property off the clock and without compensation.
25 These searches are conducted by Defendants before Plaintiffs clock in for the beginning of
26 work each day. On average, these searches last approximately 4 minutes. Plaintiffs are also
27 subjected to searches while they are clocked out for unpaid periods purported by Defendants to
28 be meal periods. Plaintiffs remain under Defendants' direction and control during these

1 searches. Plaintiffs are not permitted to record their time and are not paid compensation for
2 these searches.

3 18. Many of the hours for which Defendants have failed to compensate Plaintiffs by
4 conducting security searches off the clock are hours worked over 40 hours in a week, over 8
5 hours in a day, and/or over 12 hours in a day. Accordingly, Plaintiffs are entitled to time and a
6 half and/or double time pay for many of the hours for which Defendants failed to pay
7 compensation.

8 19. At all times during the Class Period and the PAGA Period, Defendants have
9 failed to provide Plaintiffs with meal periods of not less than 30 minutes, uninterrupted and
10 relieved of all duties. The mandatory security searches of Plaintiffs conducted by Defendants
11 interrupt Plaintiffs' purported meal periods and result in meal periods of less than 30 minutes.
12 Defendants do not pay Plaintiffs one hour of pay for each workday that Defendants fail to
13 provide Plaintiffs meal periods, nor do they pay for the time during putative meal periods
14 during which Plaintiffs are required to undergo security searches.

15 20. At all times during the Class Period and the PAGA Period, Defendants have
16 failed to provide Plaintiffs with accurate, itemized wage statements. The wage statements
17 provided by Defendants fail to conform to California law because, *inter alia*, those wage
18 statements do not display the total hours worked and wages earned by Plaintiffs because
19 Plaintiffs are not permitted to record all hours worked, as described herein.

20 21. At all times during the Class Period and the PAGA Period, Defendants have
21 failed to pay all wages due to those Plaintiffs who left their employment with Defendants or
22 were fired by Defendants. During the Class Period, many Plaintiffs resigned from or were
23 terminated by Defendants. Defendants willfully failed to pay said Plaintiffs all wages due
24 upon termination or within 72 hours of said Plaintiffs' resignation. Defendants failed to pay
25 said Plaintiffs all wages due upon termination or within 72 hours of said Plaintiffs' resignation
26 because, *inter alia*, Plaintiffs are required to work off the clock and are not paid wages for this
27 off-the-clock time, as alleged herein.

28 22. At all times during the Class Period and the PAGA period, Defendants have

1 failed to pay all wages due on regular paydays by failing to pay Plaintiffs wages, minimum
2 wages, and overtime wages for time spent undergoing security searches.

3 23. At all times during the Class Period and the PAGA period, Defendants have
4 violated Labor Code § 223 by paying Plaintiffs less than the promised hourly rate for security
5 searches (i.e., nothing at all).

6 24. At all times during the Class Period and the PAGA period, by engaging in the
7 conduct alleged herein, Defendants have willfully failed to maintain accurate payroll records
8 for Plaintiffs because Plaintiffs' time records and wage statements do not contain the actual
9 hours worked by, wages earned by, and/or wages paid to Plaintiffs.

10 25. Each violation of California law by Defendants as alleged herein constitutes a
11 separate and distinct unfair and unlawful business practice in violation of California Business
12 & Professions Code § 17200, *et seq.*

13 26. Named Plaintiff seeks to enjoin the Defendants' unlawful practices as described
14 herein. Named Plaintiff has been injured in fact and has lost money and property as a result of
15 these practices, and brings his claim for injunctive relief to prevent further harm to the public
16 at large, which continues to face and suffer harm as a result of Defendants' practices. Named
17 Plaintiff seeks preliminary and permanent injunctions to prohibit the Defendants' ongoing
18 unlawful acts, which threaten future injury to the public.

19 **V. CLASS ACTION ALLEGATIONS**

20 27. Named Plaintiff brings this action on behalf of himself and as a class action
21 pursuant to Federal Rule of Civil Procedure 23.

22 28. The Class that Named Plaintiff seeks to represent is defined as follows: All
23 individuals employed at any Gate Gourmet facility in California as a non-exempt employee at
24 any time during the Class Period.

25 29. The claims alleged by Named Plaintiff may properly be maintained as a class
26 action pursuant to Federal Rule of Civil Procedure 23 because the requirements of that Rule
27 are satisfied with respect to those claims.

28 / / /

1 **A. Numerosity**

2 30. The total number of members of the Class is believed to be in excess of 2,000
3 persons. Accordingly, joinder of all class members would be impractical.

4 **B. Commonality**

5 31. There are numerous questions of law and fact common to the Class. Such
6 questions include, but are not limited to, the following:

7 (1) Whether Defendants, as a matter of common policy, failed to pay
8 Plaintiffs wages, including minimum wages, for all hours worked;

9 (2) Whether Defendants, as a matter of common policy, failed to provide
10 Plaintiffs with legally-sufficient meal periods;

11 (3) Whether Defendants' actions as described herein constitute violations of
12 California Business and Professions Code § 17200, *et seq.*;

13 (4) The proper formula for calculating damages and restitution owed to
14 Plaintiffs;

15 (5) Whether Defendants will, unless enjoined, continue the practices alleged
16 herein; and

17 (6) The terms and conditions of the injunction to be issued against
18 Defendants.

19 **C. Typicality**

20 32. Names Plaintiff's claims are typical of the claims of the Class. Named Plaintiff
21 and all members of the proposed Class are or were subjected to the same policies and
22 procedures, and their claims arise out of Defendants' common course of conduct and are based
23 on the same legal and remedial theories.

24 **D. Adequacy of Representation**

25 33. Named Plaintiff will fairly and adequately protect the interests of the Class.
26 Named Plaintiff has retained competent and capable attorneys who are experienced trial
27 lawyers with significant experience in complex and class action litigation, including
28 employment litigation. Named Plaintiff and his counsel are committed to prosecuting this

1 action vigorously on behalf of the Class and have the financial resources to do so. Neither
2 Named Plaintiff nor his counsel have interests that are contrary to or that conflict with those of
3 the Class.

4 **E. Propriety of Certification under FRCP 23(b)(3)**

5 34. Questions of law and fact common to the Class, including the common question
6 described above, predominate over any questions affecting only individual members.
7 Adjudication of these common issues in a single action has important and desirable advantages
8 of judicial economy. Moreover, there are no unusual difficulties likely to be encountered in
9 the management of this case as a class action. The identity of each member of the proposed
10 Class can be established by uniform records maintained by Defendants.

11 35. The class action mechanism is superior to any alternatives that might exist for the
12 fair and efficient adjudication of these claims. Prosecution of this case as a class action will
13 permit a large number of injured parties to pursue their common claims in a single forum, at
14 the same time, which will promote efficiency, prevent duplication of evidence and efforts, and
15 preserve judicial resources and the resources of the parties. A class action will avoid
16 potentially inconsistent results in numerous individual trials or other judicial actions. Further,
17 class treatment is the only realistic means by which Plaintiffs can effectively litigate against
18 large, well-represented corporate defendants like Defendants here. In the absence of a class
19 action, Defendants will be unjustly enriched by the retention of the fruits and benefits of their
20 unlawful conduct. A multiplicity of repetitive individual actions would also place an enormous
21 burden on the courts.

22 **F. Propriety of Certification under FRCP 23(b)(2)**

23 36. Class certification is appropriate under FRCP 23(b)(2) because Defendants have
24 acted and/or refused to act, as alleged herein, on grounds generally applicable to the Class,
25 making appropriate declaratory and injunctive relief with respect to the Class as a whole. The
26 Class members are entitled to injunctive relief to end Defendants' common, uniform, and
27 unfair policies and practices as described herein.

28 / / /

1 **VI. CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**
3 **Failure To Pay Wages for All Hours Worked**
4 **(California Labor Code §§ 1194, 1194.2, 1197;**
5 **IWC Wage Order No. 5, § 4(A))**

6 37. Plaintiffs incorporate by reference all preceding paragraphs as though fully set
7 forth herein.

8 38. California law, including but not limited to California Labor Code §§ 1194 and
9 1197 and IWC Wage Order No. 5, § 4(A), requires employers, including Defendants, to pay
10 wages to employees for all hours worked.

11 39. As alleged herein, Defendants failed to pay Plaintiffs wages, including minimum
12 wages, for all hours worked.

13 40. As a direct and proximate result of Defendants' refusal to pay Plaintiffs wages
14 for all hours worked, Plaintiffs have sustained damages, including loss of wages, in an amount
15 in excess of the jurisdictional minimum of this Court.

16 41. Plaintiffs are, therefore, entitled to recover lost wages in an amount according to
17 proof and in excess of the jurisdictional minimum of this Court, and also to recover interest,
18 costs, and attorney's fees as provided by California law.

19 42. Additionally, Plaintiffs are entitled to recover liquidated damages pursuant to
20 California Labor Code § 1194.2.

21 **SECOND CAUSE OF ACTION**
22 **Failure To Pay Overtime Compensation**
23 **(California Labor Code §§ 510, 1194; IWC Wage Order No. 5, § 3(A)(1))**

24 43. Plaintiffs incorporate by reference all preceding paragraphs as though fully set
25 forth herein.

26 44. California law, including but not limited to California Labor Code §§ 510 and
27 1194, and IWC Wage Order No. 5, § 3(A)(1), requires employers, including Defendants, to
28 pay employees one and a half times an employee's regular rate of pay for hours worked over 8
in a day, hours worked over 40 in a week, and the 1st 8 hours worked on the 7th consecutive
day of work in a workweek; and to pay employees twice an employee's regular rate of pay for

1 hours worked over 12 in a day, and hours worked over 8 on the 7th consecutive day of work in
2 a workweek.

3 45. As alleged herein, Plaintiffs worked in excess of 8 hours per day, 40 hours per
4 week, and/or on the 7th consecutive day of work in a workweek.

5 46. As alleged herein, Defendants did not pay Plaintiffs overtime compensation as
6 required by California law.

7 47. As a direct and proximate result of Defendants' failure to pay overtime wages,
8 Plaintiffs have sustained damages, including lost wages, in an amount according to proof at
9 trial and in excess of the jurisdictional minimum of this Court.

10 48. Plaintiffs are, therefore, entitled to recover lost wages in an amount according to
11 proof and in excess of the jurisdictional minimum of this Court, and also to recover interest,
12 costs, and attorney's fees as provided by California law.

13 **THIRD CAUSE OF ACTION**
14 **Failure to Provide Meal Periods**
(California Labor Code §§ 226.7 and 512; California IWC Wage Order No. 5, § 11)

15 49. Plaintiffs incorporate by reference all preceding paragraphs as though fully set
16 forth herein.

17 50. California law, including but not limited to California Labor Code §§ 226.7 and
18 512 and IWC Wage Order No. 5, § 11, requires employers, including Defendants, to provide
19 employees a first meal period of not less than 30 minutes, uninterrupted and relieved of all
20 duties, no later than the end of an employee's 5th hour of work. Additionally, California law,
21 including but not limited to California Labor Code §§ 226.7 and 512 and IWC Wage Order No.
22 5, § 11, requires employers, including Defendants, to provide a second meal period of not less
23 than 30 minutes, uninterrupted and relieved of all duties, no later than the end of an employee's
24 10th hour of work.

25 51. As alleged herein, Defendants failed to provide meal periods to Plaintiffs or to
26 pay compensation in lieu thereof, in violation of California law.

27 52. As a direct and proximate result of Defendants' failure to provide Plaintiffs with
28 meal periods or to pay compensation in lieu thereof, Plaintiffs have been injured and have

1 sustained damages, including lost compensation for missed meal periods.

2 53. Plaintiffs are, therefore, entitled to recover lost compensation for missed meal
3 periods in an amount according to proof and in excess of the jurisdictional minimum of this
4 Court, and also to recover interest, costs, and attorney's fees as provided by California law.

5 **FOURTH CAUSE OF ACTION**
6 **Failure to Furnish Accurate Wage Statements**
7 **(California Labor Code § 226)**

8 54. Plaintiffs incorporate by reference all preceding paragraphs as though fully set
9 forth herein.

10 55. California Law, including but not limited to California Labor Code § 226(a),
11 requires employers, including Defendants, to furnish employees, at the time of payment of
12 wages, accurate, itemized wage statements displaying, among other things, the total hours
13 worked by the employee, gross and net wages earned, and all applicable hourly rates in effect
14 during the pay period and the corresponding number of hours worked at each hourly rate by the
15 employee.

16 56. As alleged herein, the wage statements provided to Plaintiffs by Defendants do
17 not include the information required by California law, including but not limited to California
18 Labor Code § 226(a).

19 57. Plaintiffs' ability to calculate unpaid and miscalculated overtime has been
20 complicated by the absence of information required by Labor Code § 226(a) but missing from
21 the wage statements provided by Defendants.

22 58. As a direct and proximate result of Defendants' failure to provide Plaintiffs with
23 accurate, itemized wage statements, Plaintiffs have encountered substantial difficulty and
24 expense in attempting to reconstruct time and pay records.

25 59. As a direct and proximate result of Defendants' failure to provide Plaintiffs with
26 accurate, itemized wage statements, Plaintiffs have suffered injury and damage to their
27 statutorily protected rights, and have been injured because they were denied both their legal
28 right to receive, and their protected interest in receiving, accurate, itemized wage statements.

60. Defendants' failure to provide accurate, itemized wage statements to Plaintiffs is

1 and was knowing and willful.

2 61. Accordingly, Plaintiffs are entitled to recover penalties and damages pursuant to
3 California Labor Code § 226(e), in addition to costs and attorney's fees as provided by
4 California law.

5 **FIFTH CAUSE OF ACTION**
6 **Waiting Time Penalties**
7 **(California Labor Code §§ 201, 202, 203)**

8 62. Plaintiffs incorporate by reference all preceding paragraphs as though fully set
9 forth herein.

10 63. California Labor Code §§ 201 and 202 require employers, including Defendants,
11 to pay employees, upon the termination of employees' employment, all wages due within the
12 time specified by those statutes.

13 64. California Labor Code § 203 provides that where an employer willfully fails to
14 timely pay such wages, the employer must continue to pay the subject employee's wages until
15 back wages are paid in full or an action is commenced, up to a maximum of 30 days of wages.

16 65. As alleged herein, all members of Plaintiff Class who have terminated or who
17 will terminate their employment with Defendants at any time prior to entry of judgment in this
18 case were not paid all wages owed to them at the time of termination of employment.

19 66. As a direct and proximate result of Defendants' failure to pay said Plaintiffs all
20 wages when due upon termination of employment, said Plaintiffs have been injured in an
21 amount to be proved at trial.

22 67. Accordingly, members of the Class who have terminated or who will terminate
23 their employment with Defendants at any time prior to entry of judgment in this case are
24 entitled to payment of thirty days' wages under California Labor Code § 203, and additionally
25 to interest, costs, and attorney's fees.

26 **SIXTH CAUSE OF ACTION**
27 **Restitution - Unfair Business Practices**
28 **(California Business & Professions Code § 17200, et seq.)**

68. Plaintiffs incorporate by reference all preceding paragraphs as though fully set
forth herein.

69. Each violation of California law by Defendants as alleged herein constitutes a separate and distinct unlawful and unfair business practice in violation of California Business & Professions Code § 17200, *et seq.*

70. As a direct and proximate result of Defendants' prohibited unfair and unlawful business practices as alleged herein, Plaintiffs have been injured in an amount to be proved at trial.

71. Plaintiffs are entitled to restitution of all amounts which Defendants were obligated to provide to the members of the Class and which, through the unfair and unlawful practices alleged herein, Defendants did not pay to the members of Class.

72. Plaintiffs are additionally entitled to recovery of interest, costs, and attorney's fees according to law.

SEVENTH CAUSE OF ACTION
Injunction
(California Business & Professions Code § 17200, *et seq.*)

73. Plaintiffs incorporate by reference all preceding paragraphs as though fully set forth herein.

74. Each violation of California law by Defendants as alleged herein constitutes a separate and distinct unlawful and unfair business practice in violation of California Business & Professions Code § 17200, *et seq.*

75. Plaintiffs have been harmed by Defendants' prohibited unfair and unlawful business practices as alleged herein.

76. Defendants have continued to engage in the unfair and illegal practices alleged herein through the present day.

77. Unless enjoined by this Court, Defendants will continue to engage in the unfair practices alleged herein.

78. Plaintiffs are entitled to, and therefore request, an injunction of this Court requiring that Defendants permanently cease and desist from engaging in the unfair practices alleged herein and, further, that this Court make such orders as are necessary to monitor Defendants' compliance with said injunction.

1 79. Plaintiffs are further entitled to costs and attorney's fees for pursuing the
2 injunction requested herein.

3 **EIGHTH CAUSE OF ACTION**
4 **Penalties Under PAGA**
5 **(California Labor Code 2698, *et seq.*)**

6 80. Plaintiffs incorporate by reference all preceding paragraphs as though fully set
7 forth herein.

8 81. Named Plaintiff brings this cause of action under the California Private
9 Attorneys General Act of 2004, Labor Code 2698, *et seq.*, on behalf of himself and all
10 Aggrieved Employees.

11 82. The Aggrieved Employees are defined as follows: All individuals employed at
12 any Gate Gourmet facility in California as a non-exempt employee at any time from May 5,
2019 through the trial date.

13 83. As described herein, Defendants have violated Labor Code §§ 201, 202, 204,
14 223, 226, 226.7, 510, 512, 558, 1174, 1197, 1198, and 1199, as well as IWC Wage Order No.
15 5, §§ 3, 4, and 11, with respect to Named Plaintiff and all Aggrieved Employees, who have
16 been injured as a result of these violations, and Named Plaintiff and the Aggrieved Employees
17 are entitled to civil penalties pursuant to Labor Code §§ 203, 210, 225.5, 226, 226.3, 256, 558,
18 1174.5, 1197.1, 2699(a), 2699(f), and other applicable law.

19 84. Named Plaintiff is an Aggrieved Employee of Defendants as defined by Labor
20 Code § 2699(c) because he was employed by Defendants, and Defendants' violations of the
21 Labor Code and IWC Wage Order No. 5 as alleged herein were committed against him.

22 85. Named Plaintiff has satisfied the requirements of Labor Code § 2699.3 by giving
23 written notice to the Labor and Workforce Development Agency and to Defendants as required
24 by Labor Code § 2699.3(a)(1)(A), paying the filing fee required by Labor Code §
25 2699.3(a)(1)(B), and waiting the periods prescribed by Labor Code § 2699.3(a)(2)(A) before
26 filing this claim.

27 86. Accordingly, pursuant to California Labor Code § 2699, Named Plaintiff is
28 entitled to recover penalties on behalf of himself and all Aggrieved Employees, and also to

1 recover costs and attorney's fees pursuant to California law, including Labor Code §
2 2699(g)(1).

3 **VII. PRAYER FOR RELIEF**

4 Wherefore, Named Plaintiff, on behalf of himself and all Plaintiffs, prays for relief as
5 follows:

6 1. That the Court certify this action as a class action on behalf of the Class pursuant
7 to Federal Rule of Civil Procedure 23;

8 2. That the Court designate Named Plaintiff as the representative of the Class;

9 3. That the Court appoint the law firm Aiman-Smith & Marcy as Class counsel;

10 4. That Defendants be ordered to pay all amounts owed to the Class arising out of
11 the actions complained of herein, including wages, penalties, interest, and costs;

12 5. That Defendants, at their own expense, be ordered to provide full and adequate
13 notice as required in class actions to all members of the Class;

14 6. That this action and the Class be further designated, respectively, as a
15 representative action and representative class under California Business & Professions Code §
16 17200, *et seq.*;

17 7. That Defendants be ordered to make full restitution of all amounts received
18 and/or retained and/or not paid to Plaintiffs by Defendants pursuant to the California Labor
19 Code, IWC Wage Order No. 5, and California Business and Professions Code § 17200, *et seq.*;

20 8. That, in addition to any constitutionally sufficient notice that is or might
21 otherwise be required in a class action under California law, Defendants be ordered to pay for
22 all necessary efforts to actually locate members of the representative class under Business and
23 Professions Code § 17200, *et seq.*;

24 9. That this Court determine, and provide its declaratory judgment, that the
25 practices complained of herein were done willfully, knowingly, and intentionally;

26 10. That this Court issue a temporary injunction, on terms the Court may deem
27 appropriate and necessary, prohibiting Defendants from engaging in the practices complained
28 of herein pending trial of this action, and requiring Defendants to make appropriate reports to

1 the Court or its appointed agent or expert regarding their compliance with said injunction, and
2 requiring Defendants to pay all costs associated with said monitoring said injunction;

3 11. That this Court issue a permanent injunction, on terms the Court may deem
4 appropriate and necessary, prohibiting Defendants from engaging in the practices complained
5 of herein, requiring Defendants to make appropriate reports to the Court or its appointed agent
6 or expert regarding its compliance with said injunction, and requiring Defendants to pay all
7 costs associated with monitoring said injunction;

8 12. That Defendants be ordered to pay all PAGA penalties arising from their conduct
9 as alleged herein, to be distributed to the LWDA and the Aggrieved Employees as provided by
10 Labor Code §§ 558(a)(3), 1197.1, 2699(i), and other applicable law;

11 13. For attorney's fees as provided by statutory and common law;

12 14. For costs of suit incurred; and

13 15. For such other legal and equitable relief as the Court may deem just and proper.

14 Dated: July 10, 2020

15
16
17
18
19
20
21
22
23
24
25
26
27
28
AIMAN-SMITH & MARCY
A PROFESSIONAL CORPORATION

Carey A. James

Carey A. James
Attorneys for Plaintiffs

1 **DEMAND FOR JURY TRIAL**

2 Named Plaintiff, on behalf of himself, the Class, and the Aggrieved Employees, hereby
3 demands a jury on all causes of action and claims with respect to which Plaintiffs have a right
4 to jury trial.

5
6 Dated: July 10, 2020

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


Carey A. James

Carey A. James
Attorneys for Plaintiffs