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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF LOS ANGELES**

10 **20STCV30991**

11 RUDY MAGANA, an individual,

12 Plaintiff,

13 vs.

14 SHAVING DIRECT, INC., a California
Corporation, SHAVE NOW, ROLLING
15 RAZOR, INC., a California Corporation,
DAVID KLUDJIAN, an individual, and DOES 1
16 - 25, inclusive,

17 Defendant.

) Case No.
)
) **COMPLAINT FOR DAMAGES FOR:**
) **1. FAILURE TO PAY MINIMUM**
) **WAGE;**
) **2. FAILURE TO PAY OVERTIME**
) **WAGES;**
) **3. FAILURE TO PROVIDE MEAL AND**
) **REST PERIODS;**
) **4. FAILURE TO PROVIDE ACCURATE**
) **ITEMIZED WAGE STATEMENTS;**
) **5. FAILURE TO PAY ALL WAGES DUE**
) **AND PAYABLE AT SEPARATION OF**
) **EMPLOYMENT;**
) **6. VIOLATION OF LABOR CODE**
) **SECTION 558;**
) **7. UNFAIR BUSINESS PRACTICES -**
) **BUSINESS AND PROFESSION CODE**
) **SECTION 17200 et. seq; and**
) **8. CIVIL PENALTIES PURSUANT TO**
) **THE PRIVATE ATTORNEYS GENERAL**
) **ACT OF 2004.**
)
) DEMAND FOR JURY TRIAL
)

24 COMES NOW Plaintiff RUDY MAGANA with his Complaint against Defendants
25 SHAVING DIRECT, INC., a California Corporation, SHAVE NOW, ROLLING RAZOR, INC., a
26 California Corporation, DEFENDER RAZOR, DAVID KLUDJIAN, an individual, and DOES 1-
27 25, inclusive, and hereby alleges as follows:

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COMPLAINT

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1 named as an individual Defendant pursuant to Labor Code § 558, upon information and belief that
2 Defendant KLUDJIAN was aware of the California Labor Laws that require him and his business
3 to pay its employees for all hours worked, for all overtime worked and to pay a premium for non-
4 compliant meal and rest breaks. KLUDJIAN was put on notice by Plaintiff of his claims and was
5 specifically advised by KLUDJIAN that he had no intention of investigating or resolving the
6 claims.

7 7. Plaintiff is informed, believes, and thereon alleges that Defendants are, and at all
8 times mentioned herein was, a business organized under California laws, with its principal place of
9 business in Los Angeles County, California. At all times hereinafter mentioned, Defendants were
10 employers whose employees were engaged in this county and the State of California.

11 8. The true names and capacities, whether individual, corporate, partnership, associate
12 or otherwise, of Defendants sued herein as DOES 1 to 25, inclusive, are currently unknown to
13 Plaintiff, who therefore sues said Defendants by fictitious names. Plaintiff is informed and believes
14 and thereon alleges that each of the Defendants designated herein as a DOE is legally responsible
15 in some manner for the events and happenings referred to herein and caused injury and damage
16 proximately thereby to Plaintiff as hereinafter alleged. Plaintiff will seek leave of court to amend
17 this Complaint to show the true names and capacities of the Defendants designated herein as DOES
18 when the same have been ascertained. Whenever in the Complaint reference is made to
19 “Defendants,” such allegation shall be deemed to mean the acts of Defendants acting individually,
20 jointly, or severally.

21 **JOINT LIABILITY**

22 9. Except as hereinafter specifically described, Defendants, and each of them, are and
23 were the agents and/or employees of the other Defendants, and in acting as described herein were
24 acting within the scope of their authority or employment as agents and/or employees thereof, and
25 with the permission and consent of the other Defendants.

26 10. Upon information and belief, Defendants are all shaving products companies,
27 operating as separate entities of one another, whom distributes and sells various shaving products
28 from the same principal place of business. Defendants all received the same benefits from



1 Plaintiff's duties consisting of cleaning and maintaining the warehouse, which each Defendants
2 operate out of, and packaging and shipping products.

3 11. Upon information and belief, all Defendants' entity address is registered to the same
4 physical address location. Additionally, Plaintiff reports to work for each and every Defendants at
5 the same warehouse location.

6 12. As to each of the Defendants, Plaintiff is informed and believes and thereon alleges
7 that, at all relevant times mentioned herein, each Defendant was the principal, agent, employer,
8 employee, partner, joint venture, officer, director, controlling shareholder, alter ego, subsidiary,
9 affiliate, parent corporation, successor in interest and predecessor in interest of some or all of the
10 other Defendants, and was engaged with some or all of the other Defendants in a joint enterprise
11 for profit, and bore such other relationships to some or all of the other Defendants, so as to be liable
12 for the conduct of them.

13 13. Plaintiff is further informed and believes and thereon alleges that each Defendant
14 acted pursuant to and within the scope of the relationship alleged above, that each Defendant knew
15 or should have known about, authorized, ratified, adopted, approved, controlled, aided and abetted
16 the conduct of all other Defendants; and that each Defendant acted pursuant to a conspiracy and
17 agreement to do the things alleged herein.

18 **GENERAL BACKGROUND FACTS**

19 14. Plaintiff was jointly employed by Defendants as a Warehouse Product Shipper and
20 Warehouse Custodian, both non-exempt positions based on his job duties. from in or around July
21 2014 to on or around June 24, 2019.

22 15. Plaintiff's duties in the warehouse comprised of pulling products from shelves to
23 pack and ship to customers, cleaning offices and bathrooms of the warehouse, maintaining and
24 cleaning the storage area of the warehouse, and loading and unload shipments from delivery trucks.

25 16. Upon information and belief, Defendants Shaving Direct, Incorporated and Shave
26 Now, Rolling Razor, are all owned and operated by Defendant DAVID KLUDJIAN
27 ("KLUDJIAN").



1 17. Plaintiff was initially compensated \$15.00 per hour when he first started in or
2 around July 2014 to December 2018, at which time Plaintiff earned \$16.00 per hour until his
3 termination on June 24, 2019. Plaintiff was paid bi-weekly.

4 18. On average, Plaintiff worked more than eight (8) hours per day, six (6) days a week.
5 Plaintiff worked an average of 50 hours per week. Plaintiff worked Monday to Friday from 8:00
6 a.m. to around 6:00 p.m. On average, he worked ten (10) hours per day from July 2014 to February
7 2019. Plaintiff was not properly compensated for the overtime hours that he worked in excess of
8 eight (8) hours per day. There were weeks Plaintiff worked more than ten (10) hours per day.

9 19. Plaintiff was never compensated for his overtime hours worked. KLUDJIAN, on
10 behalf of the employer Defendants, has represented numerous times to Plaintiff that he does not
11 desire nor intends to pay Plaintiff any overtime hours worked.

12 20. As such, KLUDJIAN told Plaintiff that he will only schedule Plaintiff ten (10) hour
13 workdays on some days and the remaining days to be shorter to not exceed a total of forty (40)
14 hours per week.

15 21. These random work schedules were due to employer DEFENANTS' refusal to pay
16 overtime for hours worked in excess of 8 hours a day. KLUDJIAN, despite his knowledge of
17 California labor laws, only would pay for overtime hours worked in excess of 40 hours a week.

18 22. Plaintiff is informed, believes, and based thereon alleges that KLUDJIAN was
19 aware that he caused Defendants to violate the Labor Code when he attempted to circumvent
20 various Labor Codes concerning compensation for overtime hours worked.

21 23. Upon information and belief, at least four (4) current and/or former employees of
22 Defendants are aggrieved employees and suffered from the same or similar circumstances as
23 Plaintiff regarding meal and rest periods, and therefore have resulting claims associated with such.

24 24. Despite being entitled to meal and rest periods and required to clock out for meal
25 periods, it was known around and reiterated to him multiple times by his direct supervisor,
26 KLUDJIAN, that neither were acceptable.

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1 25. Throughout the duration of Plaintiff's employment with Defendants, Plaintiff was
2 never provided with a single uninterrupted thirty (30) minute meal period and was never provided
3 the opportunity to take ten (10) minute rest periods.

4 26. Specifically, KLUDJIAN frequently reminded Plaintiff that the warehouse is never
5 to be left unattended. KLUDJIAN instructed Plaintiff to clock out for lunch, however, Plaintiff was
6 instructed that he must immediately unload all delivery trucks that arrives during his lunch and/or
7 rest breaks. KLUDJIAN also instructed Plaintiff to process and ship all product orders as they
8 come, even if Plaintiff was taking his meal and rest breaks.

9 27. During instances where Plaintiff is able to grab a sandwich from the local Subway
10 store or a snack from the 7-11 mart, KLUDJIAN instructed Plaintiff to immediately return to the
11 warehouse after his purchases, so that the delivery trucks are immediately unloaded.

12 28. The employer DEFENDANTS were aware of all of these facts and ratified the
13 behavior and used these improper employment practices to gain an unfair competitive advantage
14 against its competitors.

15 29. Upon information and belief, at least four (4) current and/or former employees of
16 Defendants are aggrieved employees and suffered from the same or similar circumstances as
17 Plaintiff regarding meal and rest periods, and therefore have resulting claims associated with such.

18 30. Upon information and belief, at least four (4) current and/or former employees of
19 Defendants are aggrieved employees as defined under California Labor Code section 2699(c).

20 31. Plaintiff is informed, believes, and based thereon alleges that KLUDJIAN, as a
21 managing agent of Defendants who caused the provisions of the Labor Code and IWC Wage Order
22 alleged herein to be violated, is subject to liability pursuant to Labor Code section 558.1.

23 32. Plaintiff filed a Private Attorneys General Act of 2004 ("PAGA") Notice with the
24 Labor and Workforce Development Agency ("LWDA") on May 1, 2020. Therefore, Plaintiff has
25 waited the mandatory sixty-five (65) days since filing his PAGA Notice.

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FIRST CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGE
(Violation of Labor Code section 1194)
(Against All Defendants)

33. Plaintiff realleges and incorporates each preceding paragraph as though fully set forth herein.

34. At all times mentioned herein, Defendants employed Plaintiff.

35. At all times mentioned herein, Plaintiff's employment by Defendants was subject to the provisions of the California Labor Code and the applicable IWC Wage Order.

36. Section 1194 of the California Labor Code states that any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees and costs of suit.

37. As discussed above, Plaintiff was required and instructed by Defendants and/or KLUDJIAN to clock out for lunch. After doing so, Plaintiff continued working while clocked out and was not compensated for such. Plaintiff was not paid by DEFENDANTS for the overtime hours worked when Plaintiff was forced to work through his lunch without pay.

38. Plaintiff was never provided with a single legally complaint and uninterrupted thirty (30) minute meal period. KLUDJIAN instructed Plaintiff to always remain on the warehouse premise while taking his lunches and to immediately cease taking his lunch break to unload delivery trucks or process orders to be shipped. Specifically, KLUDJIAN told Plaintiff that he does not like the warehouse to be empty and unattended at any given moment.

39. Plaintiff's off-the-clock work and Defendants' failure to provide Plaintiff with meal periods resulted in additional hours worked by Plaintiff at the direction of Defendants and KLUDJIAN, upon information and belief, nearly every shift of Plaintiff's employment with Defendants for which Plaintiff was not compensated for, whatsoever.

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40. Plaintiff is informed and believes, and based thereon alleges that KLUDJIAN as a Chief Executive Officer of Defendants' who caused the alleged provisions of the Labor Code and IWC Wage Order to be violated, is subjected to liability pursuant to Labor Code section 558.1.

41. Plaintiff requests that the Court award Plaintiff interest on all unpaid wages at the legal rate specified by Civil Code section 3289(b), accruing from the date the wages were due and payable pursuant to Labor Code section 218.6.

42. Pursuant to Labor Code section 1194(a), Plaintiff requests that this Court award Plaintiff interest, reasonable attorneys' fees, and costs incurred in this action.

SECOND CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES

(Violation of Labor Code section § 510 and 1198)

(Against All Defendants)

43. Plaintiff hereby realleges and incorporates each preceding paragraph as though fully set forth herein.

44. At all times mentioned herein, Defendants employed Plaintiff.

45. At all times mentioned herein, Plaintiff's employment by Defendants was subject to the provisions of the California Labor Code and the applicable IWC Wage Order.

46. California Labor Code section 510(a) and the applicable IWC Wage Order regulating payment of wages in the state of California, provides that eight (8) hours of labor constitutes a day's work and any work in excess of eight (8) hours in one (1) workday and any work in excess of forty (40) hours in any one (1) workweek shall be compensated at the rate of no less than one and one-half (1.5) times the regular rate of pay for each employee, and any work in excess of twelve (12) hours in any one workday shall be compensated at the rate of no less than twice the regular rate of pay for each employee ["double-time"], and at no less than one and one-half (1.5) for the first eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

47. California Labor Code section 1194 states that any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to



1 recover the unpaid balance of the full amount of this minimum wage or overtime compensation,
2 including interest thereon, reasonable attorney's fees and costs of suit.

3 48. While employed by Defendants, Plaintiff worked more than eight (8) hours per day
4 and over forty (40) hours per week.

5 49. On many occasions, Defendants failed to pay Plaintiff overtime or double-time
6 wages for the hours he worked in excess of eight (8) and twelve (12) hours in a day and in excess
7 of forty (40) hours in a week.

8 50. Plaintiff was only paid straight time for some of the actual recorded overtime hours.

9 51. As discussed above, Plaintiff was required and instructed by Defendants and/or
10 KLUDJIAN to clock out for lunch. After doing so, Plaintiff continued working while clocked out
11 and was not compensated for such.

12 52. Plaintiff was never provided with a single uninterrupted thirty (30) minute meal
13 period. KLUDJIAN instructed Plaintiff to always remain on the warehouse premise while taking
14 his lunches and to immediately cease taking his lunch break to unload delivery trucks or process
15 orders to be shipped. Specifically, KLUDJIAN told Plaintiff that he does not like the warehouse to
16 be empty and unattended at any given moment.

17 53. Plaintiff's off-the-clock work and Defendants' failure to provide Plaintiff with meal
18 periods resulted in additional overtime hours worked by Plaintiff at the direction of Defendants and
19 KLUDJIAN upon information and belief, nearly every shift of Plaintiff's employment with
20 Defendants for which Plaintiff was not compensated for, whatsoever.

21 54. Plaintiff is informed and believes, and based thereon alleges that KLUDJIAN as a
22 Chief Executive Officer of Defendants' who caused the alleged provisions of the Labor Code and
23 IWC Wage Order to be violated, is subjected to liability pursuant to Labor Code section 558.1.

24 55. Plaintiff requests that the Court award Plaintiff interest on all unpaid wages at the
25 legal rate specified by Civil Code section 3289(b), accruing from the date the wages were due and
26 payable pursuant to Labor Code section 218.6.

27 56. Pursuant to Labor Code section 1194(a), Plaintiff requests that this Court award
28 Plaintiff interest, as well as reasonable attorneys' fees and costs incurred in this action.



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THIRD CAUSE OF ACTION
FAILURE TO PROVIDE MEAL AND REST PERIODS
(Violation of Labor Code section § 226.7 and 512)
(Against All Defendants)

57. Plaintiff hereby realleges and incorporates each preceding paragraph as though fully set forth herein.

58. At all times mentioned herein, Defendants employed Plaintiff.

59. At all times mentioned herein, Plaintiff's employment by Defendants was subject to the provisions of the California Labor Code and the applicable IWC Wage Order.

60. California Labor Code section 512 and the applicable IWC Wage Order states that an employer may not employ an employee for a work period of more than five (5) hours per day without providing the employee a meal period of not less than thirty (30) minutes, and an employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than thirty (30) minutes. The applicable IWC Wage Order further states that unless the employee is relieved of all duty during a thirty (30) minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. California Labor Code section 226.7(a) states that no employer shall require any employee to work during any meal or rest period mandated by an applicable order of the IWC.

61. During his employment, Plaintiff was not provided any meal periods within the first five (5) hours of work, nor was Plaintiff provided with a proper second meal period during the days Plaintiff worked more than ten (10) hours in a day.

62. Defendants did not provide Plaintiff the opportunity to take uninterrupted meal breaks and failed to provide Plaintiff with the opportunity to take off-duty meal breaks.

63. Defendants' actions were fraudulent and deceitful, and were intentional acts designed to maximize their profits in complete disregard for Plaintiff's right to take a thirty (30) minute duty free meal period.



1 64. Pursuant to Labor Code section 226.7(b) and the applicable IWC Wage Order, if an
2 employer fails to provide an employee a meal period in accordance with the applicable provisions
3 of IWC Wage Order, the employer shall pay the employee one (1) hour of pay at the employee's
4 regular rate of compensation for each workday that the meal period is not provided. As such,
5 Plaintiff is entitled to an additional one (1) hour of pay for each missed meal break per day for each
6 workday in which Plaintiff was not provided a proper meal break under the above-described
7 authorities.

8 65. Instead of paying Plaintiff one (1) hour of pay at his regular rate of compensation
9 for each workday that Plaintiff had to work during his lunches, KLUDJIAN altered Plaintiff's
10 timecard to reflect that a meal period was taken despite the fact it was not.

11 66. The applicable IWC Wage Order states that every employer shall authorize and
12 permit all employees to take rest periods. The authorized rest period time shall be based on the total
13 hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours of work.

14 67. At no time during Plaintiff's employment with Defendants was Plaintiff provided an
15 opportunity to take proper rest breaks at the rate of ten (10) minutes rest time per four (4) hours of
16 work. Plaintiff was required to work during all rest periods in contravention of the statutory
17 authorities described herein.

18 68. Plaintiff is informed and believes, and based thereon alleges that KLUDJIAN, as a
19 managing agent of Defendants who caused the alleged provisions of the Labor Code and IWC
20 Wage Order to be violated, is subjected to liability pursuant to Labor Code section 558.1.

21 69. Pursuant to Labor Code section 226.7(b) and the applicable IWC Wage Order, if an
22 employer fails to provide an employee with a rest period in accordance with the provisions of IWC
23 Wage Order, the employer shall pay the employee one (1) hour of pay at the employee's regular
24 rate of compensation for each workday that the rest period is not provided. As such, Plaintiff is
25 entitled to an additional one (1) hour of pay for each day in which said Plaintiff was not provided a
26 proper rest period under the above-described authorities.

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70. Pursuant to Labor Code section 218.6, Plaintiff requests that the Court award Plaintiff interest on unpaid wages, at the legal rate specified by Civil Code section 3289(b) accruing from the date the wages were due and payable.

71. Pursuant to Labor Code section 1194(a), Plaintiff requests that this Court award Plaintiff interest, as well as reasonable attorneys' fees and costs incurred in this action.

FOURTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(Violation of Labor Code Section 226)

(Against All Defendants)

72. Plaintiff hereby realleges and incorporates each preceding paragraph as though fully set forth herein.

73. At all times mentioned herein, Defendants employed Plaintiff.

74. At all times mentioned herein, the employment of Plaintiff by Defendants was subject to the provisions of the California Labor Code and IWC Wage Order 4-2001.

75. California Labor Code section 226 states that every employer shall, semimonthly or at the time of each payment of wages, furnish each of its employees – either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash – an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive date of the period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Section 226 also provides that the deductions made from payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a



record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

76. During Plaintiff's employment with Defendants, Defendants failed to provide Plaintiff with a proper itemized wage statement in compliance with California Labor Code section 226.

77. Pursuant to Labor Code section 226(e), an employee suffering injury as a result of a knowing and intentional failure by an employer to comply with the itemized wage statement requirement is entitled to recover the greater of, all actual damages, or fifty dollars (\$50.00) for the initial pay period in which a violation occurs and one hundred dollars (\$100.00) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000.00), and is entitled to an award of costs and reasonable attorneys' fees.

78. Plaintiff is informed and believes, and based thereon alleges that KLUDJIAN as a Chief Executive Officer of Defendants' who caused the alleged provisions of the Labor Code and IWC Wage Order to be violated, is subjected to liability pursuant to Labor Code section 558.1.

79. Plaintiff requests that this Court issue an order of monetary damages and attorneys' fees and costs in favor of Plaintiff and against Defendants, in accordance with the provisions of California Labor Code section 226(e).

FIFTH CAUSE OF ACTION

FAILURE TO PAY ALL WAGES DUE AND PAYABLE UPON TERMINATION

(Violation of Labor Code section § 201 and 202)

(Against All Defendants)

80. Plaintiff hereby realleges and incorporates each preceding paragraph as though fully set forth herein.

81. At all times mentioned herein, Defendants employed Plaintiff.

82. At all times herein mentioned, the employment of Plaintiff by Defendants was subject to the provisions of the California Labor Code and IWC Wage Order 4-2001.

83. California Labor Code section 201 states that an employer is required to provide an employee who is terminated all unpaid wages immediately upon termination. California Labor



1 Code section 203 states that if an employer willfully fails to pay an employee, who is discharged or
2 quits, wages according to Labor Code section 201, these wages shall continue as a penalty for up to
3 a maximum of thirty (30) days.

4 84. Defendants failed to pay the earned wages due and owing to Plaintiff upon his
5 termination. To date, Defendants still has not paid Plaintiff all the wages he is due.

6 85. Plaintiff is informed, believes, and thereon alleges that Defendants failed to pay and
7 intentionally withheld his wages upon termination, thereby violating Labor Code sections 201 and
8 203 and requiring Defendants to pay Plaintiff a thirty (30) day wage penalty in addition to unpaid
9 wages.

10 86. Defendants willfully violated the laws, regulations, and orders governing the wages
11 of employees as described in the causes of action above.

12 87. Plaintiff is informed and believes, and based thereon alleges that KLUDJIAN as a
13 Chief Executive Officer of Defendants' who caused the alleged provisions of the Labor Code and
14 IWC Wage Order to be violated, is subjected to liability pursuant to Labor Code section 558.1.

15 88. Pursuant to Labor Code section 203, Plaintiff is entitled to recover a penalty
16 equivalent to his daily rate of pay multiplied by thirty (30) days.

17 **SIXTH CAUSE OF ACTION**

18 **VIOLATION OF LABOR CODE SECTION 558**

19 **(Against Defendant KLUDJIAN)**

20 89. Plaintiff realleges each preceding paragraph as though fully set forth herein.

21 90. Labor Code section 558(a) provides for liability against individual corporate agents
22 who cause violations of the Labor Code. Labor Code section 558(a) further states that any "person
23 acting on behalf of an employer who violates or causes to be violated" a statute or wage order
24 relating to working hours is subject to a civil penalty, payable to the affected employee, equal to
25 the amount of any underpaid wages.

26 91. Labor Code section 558 provides for a civil penalty of fifty (\$50) dollars for any
27 initial violation and one hundred dollars (\$100) for each subsequent violation for each pay period
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1 for which the employee was underpaid in addition to an amount sufficient to recover underpaid
2 wages.

3 92. Plaintiff is informed, believes, and based thereon alleges that KLUDJIAN, as Chief
4 Executive Officer, is a managing agent of Defendants.

5 93. Plaintiff is informed, believes, and based thereon alleges that KLUDJIAN classified
6 Defendants' staff members, such as managers and administrative employees, and other warehouse
7 employees, as 1099 employees, and then switching some employees to W2 employees, therefore is
8 aware of the proper method of classifying workers as employees.

9 94. Beginning at an exact date unknown to Plaintiff, KLUDJIAN, in his capacity as a
10 managing agent of Defendants, violated Labor Code section 558(a) by causing the wage and hour
11 violations described herein, including regulations set forth in IWC Wage Orders. As alleged herein,
12 Plaintiff was underpaid each pay period that he worked for Defendants.

13 95. Therefore, KLUDJIAN, as a managing agent of Defendants, is liable to Plaintiff
14 pursuant to Labor Code section 558.

15 96. Plaintiff requests that this Court issue an order of monetary damages and attorneys'
16 fees and costs in favor of Plaintiff and against KLUDJIAN, in accordance with the provision of
17 Labor Code section 558.

18 **SEVENTH CAUSE OF ACTION**

19 **UNFAIR BUSINESS PRACTICES**

20 **(Violation of Business and Professions Code §§ 17200, *et seq.*)**

21 **(Against All Defendants)**

22 97. Plaintiff hereby realleges and incorporates each preceding paragraph as though fully
23 set forth herein.

24 98. At all times mentioned herein, Defendants employed Plaintiff.

25 99. Defendants, and each of them, are "persons" as defined under Business &
26 Professions Code section 17021.

27 100. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
28 unlawful, and harmful to Plaintiff, other aggrieved employees, and to the general public. Plaintiff



1 seeks to enforce important rights affecting the public interest within the meaning of code of Code
2 of Civil Procedure section 1021.5.

3 101. Defendants' activities, as alleged herein, are violation of California law, and
4 constitute unlawful business acts and practices in violation of California Business & Professions
5 Code section 17200, *et seq*, including giving the Employer DEFENDANTS an unfair competitive
6 business advantage against their competitors by their intentional and flagrant refusal to follow
7 California Labor Laws.

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

14 **Failure to Pay Minimum Wage**

15 103. Defendants' failure to pay minimum wage in violation of the Labor Code, as alleged
16 above, constitutes unlawful and/or unfair activity prohibited by Business & Professions Code
17 section 17200, *et seq*.

18 **Failure to Overtime Wages**

19 104. Defendants' failure to pay overtime wages in violation of the Labor Code, as alleged
20 above, constitutes unlawful and/or unfair activity prohibited by Business & Professions Code
21 section 17200, *et seq*.

22 **Failure to Provide Meal and Rest Periods**

23 105. Defendants' failure to provide legally required meal and rest periods in violation of
24 the Labor Code, as alleged above, constitutes unlawful and/or unfair activity prohibited by
25 Business & Professions Code section 17200, *et seq*.

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1 **Failure to Record Meal Periods**

2 106. Defendants' failure to record meal periods in accordance with Labor Code section
3 1198 and IWC Wage Orders, as alleged above, constitutes unlawful and/or unfair activity
4 prohibited by Business & Professions Code section 17200, *et seq.*

5 **Failure to Reimburse Expenses**

6 107. Defendants' failure to reimburse expenses in violation of the Labor Code, as alleged
7 above, constitutes unlawful and/or unfair activity prohibited by Business & Professions Code
8 section 17200, *et seq.*

9 **Failure to Provide Accurate Itemized Wage Statements**

10 108. Defendants' failure to provide accurate and itemized wage statements in accordance
11 with Labor Code section 226, as alleged above, constitutes unlawful and/or unfair activity
12 prohibited by Business & Professions Code section 17200, *et seq.*

13 **Failure to Pay Wages Upon Termination**

14 109. Defendants' failure to timely pay wages upon termination in accordance with Labor
15 Code sections 201 and 202, as alleged above, constitutes unlawful and/or unfair activity prohibited
16 by Business & Professions Code section 17200, *et seq.*

17 110. By and through their unfair, unlawful, and/or fraudulent business practices described
18 herein, Defendants have obtained valuable property, money, and services from Plaintiff and have
19 deprived Plaintiff of valuable rights and benefits guaranteed by law, all to his detriment.

20 111. Plaintiff suffered monetary injury as a direct result of Defendants' wrongful
21 conduct.

22 112. Plaintiff are entitled to, and do seek such relief, as may be necessary to disgorge the
23 profits which Defendants have acquired, or of which Plaintiff has been deprived, by means of the
24 above-described unfair, unlawful, and/or fraudulent business practices. Plaintiff is not obligated to
25 establish individual knowledge of the unfair practices of Defendants in order to recover restitution.

26 113. Plaintiff is further entitled to and do seek a declaration that the above-described
27 business practices are unfair, unlawful, and/or fraudulent, and injunctive relief restraining the
28



1 Defendants, and each of them, from engaging in any of the above-described unfair, unlawful,
2 and/or fraudulent business practices in the future.

3 114. Plaintiff has no plain, speedy, and/or adequate remedy at law to redress the injuries
4 which they have suffered as a consequence of Defendants' unfair, unlawful, and/or fraudulent
5 business practices. As a result of the unfair, unlawful, and/or fraudulent business practices
6 described above, Plaintiff has suffered and will continue to suffer irreparable harm unless
7 Defendants, and each of them, are restrained from continuing to engage in said unfair, unlawful,
8 and/or fraudulent business practices.

9 115. Pursuant to California Business & Professions Code section 17200, *et seq.*, Plaintiff
10 is entitled to restitution of the wages withheld and retained by Defendants during a period that
11 commences four (4) years prior to the filing of this complaint; a permanent injunction requiring
12 Defendants to pay all outstanding wages due to Plaintiff; an award of attorneys' fees pursuant to
13 California Code of Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

14 **EIGHTH CAUSE OF ACTION**
15 **CIVIL PENALTIES PURSUANT TO THE**
16 **PRIVATE ATTORNEYS GENERAL ACT OF 2004**
17 **(Violation of Labor Code section § 2698, *et seq.*)**

18 **(Against All Employer Defendants)**

19 116. Plaintiff hereby reallege and incorporate each of the preceding paragraphs as though
20 fully set forth herein.

21 117. At all times mentioned herein, the employer Defendants employed Plaintiff.

22 118. Plaintiff is an aggrieved employee as defined in Labor Code section 2699(c). Other
23 current and/or former employees have been aggrieved based upon Defendants' egregious violations
24 of the California Labor Code and Business & Professions Code. As a result, Plaintiff brings this
25 cause of action on behalf of both himself and other current and former employees of Defendants for
26 the violations alleged in this Complaint.

27 119. Defendants have retaliated in violation of Labor Code section 1102.5; failed to pay
28 minimum wages in violation of Labor Code section 1194; failed to pay overtime wages in violation



1 of Labor Code sections 510 and 1198; failed to provide meal and rest periods in violation of Labor
2 Code sections 226.7 and 512; failed to reimburse expenses in violation of Labor Code section
3 2802(a); failed to provide accurate and itemized wage statements in violation of Labor Code
4 section 226; failed to pay all wages due and payable upon termination in violation of Labor Code
5 section 201 and 202; and engaged in unfair business practices in violation of Business &
6 Professions Code section 17200, *et seq.*

7 120. Pursuant to Labor Code section 2699, *et seq.*, Plaintiff and other aggrieved
8 employees seek to recover civil penalties under Labor Code sections 2699(f) and 558 for which
9 Defendants are liable as a result of their violations of the aforementioned Labor Code and Business
10 and Professions Code sections in an amount to be proven at trial.

11 121. Plaintiff has exhausted all obligations under Labor Code section 2699.3(a). On
12 March 28, 2020, Plaintiff gave written notice by online submission to the LWDA and by certified
13 mail to Defendants agent for service of process as prescribed by the Labor Code of the specific
14 provisions of this code alleged to have been violated and included the facts and theories to support
15 the alleged violations. Sixty-five (65) calendar days have passed since the postmark date of the
16 notices. As such, pursuant to section 2699.3(a)(2)(A), Plaintiff may now commence a
17 representative civil action as a proxy of the State of California.

18 122. As a proximate result of the action and conduct described in the paragraphs above,
19 which constitute violations of certain Labor Code and Business & Professions Code sections,
20 Plaintiff and all other aggrieved employees have been damaged in an amount according to proof at
21 the time of trial and seeks civil penalties and attorney's fees pursuant to Labor Code section
22 2699(f) and (g) against Defendants.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff prays judgment against Defendants, and each of them, as follows:

- 25 1. For economic damages according to proof;
26 2. For non-economic damages according to proof;
27 3. For prejudgment interest;
28 4. For an award of exemplary and punitive damages according to proof;



5. For reasonable attorneys' fees and costs;
6. For penalties and premiums available under applicable law;
7. For declaratory and injunctive relief; and
8. For such other relief as the court deems proper.

Plaintiff hereby demands a jury trial as to all issues so triable.

Dated: August 14, 2020

KRING & CHUNG, LLP

By: 

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Huy M. Tran
Attorneys for Plaintiff
Rudy Magana

