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7 Attorneys for Plaintiffs
VICTOR CORONEL and GUILLERMO MOLINA

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF RIVERSIDE**

11 VICTOR CORONEL and GUILLERMO
MOLINA, as aggrieved employees and
12 Private Attorneys General,

13 Plaintiffs,

14 vs.

15 CMH MANUFACTURING WEST, INC., a
Nevada corporation; CLAYTON HOMES,
16 INC., a Delaware corporation; and DOES 1
through 50, inclusive,

17 Defendants.
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Case No.: **RIC2003070**

**REPRESENTATIVE ACTION
COMPLAINT**

DEMAND FOR TRIAL BY JURY

**(1) VIOLATION OF CALIFORNIA
LABOR CODE § 2699, ET SEQ.
(PRIVATE ATTORNEYS
GENERAL ACT)**

1 Plaintiffs VICTOR CORONEL and GUILLERMO MOLINA (“Plaintiffs”), as an
2 aggrieved employee and as a private attorney general, based upon facts that either have
3 evidentiary support or are likely to have evidentiary support after a reasonable opportunity for
4 further investigation and discovery, alleges as follows:

5 **JURISDICTION AND VENUE**

6 1. Plaintiffs bring this action against Defendants CMH MANUFACTURING WEST,
7 INC., CLAYTON HOMES, INC. and DOES 1 THROUGH 50 (hereinafter also collectively
8 referred to as “Defendants”) as a representative action on behalf of themselves and certain other
9 current and former non-exempt employees of Defendants against whom one or more of the
10 alleged violations was committed (hereinafter collectively referred to as the “Aggrieved
11 Employees”) pursuant to California Labor Code sections 2698, et seq. Plaintiffs are aggrieved
12 employees against whom one or more of the alleged violations was committed. The civil penalties
13 sought by Plaintiffs exceed the minimal jurisdiction limits of the Superior Court and will be
14 established according to proof at trial.

15 2. The Court has jurisdiction over this action pursuant to the California Constitution,
16 Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes”
17 except those given by statute to other courts. The statutes under which this action is brought do
18 not specify any other basis for jurisdiction.

19 3. This Court has jurisdiction over Defendants because, upon information and belief,
20 Defendants are citizens of California, have sufficient minimum contacts in California, or
21 otherwise intentionally avail themselves of the California market so as to render the exercise of
22 jurisdiction over them by the California courts consistent with traditional notions of fair play and
23 substantial justice.

24 4. Venue is proper in this Court because, upon information and belief, Defendants
25 maintain offices, have agents, and/or transact business in the State of California, County of
26 Riverside.

27 **PARTIES**

28 5. Plaintiff VICTOR CORONEL is an individual residing in the County of Riverside,

1 State of California.

2 6. Plaintiff GUILLERMO MOLINA is an individual residing in the County of
3 Riverside, State of California.

4 7. Defendant CMH MANUFACTURING WEST, INC. is and at all times herein
5 mentioned was, a corporation organized and existing under the laws of the State of Nevada.

6 8. Plaintiffs are ignorant of the identities of defendants Does 1 through 50, inclusive,
7 and therefore sues these defendants by such fictitious names. The Doe defendants may be
8 individuals, partnerships, or corporations. Plaintiffs are informed and believe, and thereon allege,
9 that, at all times mentioned herein, each of the Doe defendants was the parent, subsidiary, agent,
10 servant, employee, co-venturer, and/or co-conspirator of each of the other defendants, and was at
11 all times mentioned acting within the scope, purpose, consent, knowledge, ratification and
12 authorization of such agency, employment, joint venture and conspiracy. Plaintiffs will amend
13 this Complaint to allege their true names and capacities when ascertained. Plaintiffs are informed
14 and believes and thereon alleges that each of the fictitiously named Doe defendants are
15 responsible in some manner for the occurrences herein alleged, and that Plaintiffs' damages as
16 herein alleged were proximately caused by its conduct.

17 9. Defendants are and at all times herein mentioned were, (a) conducting business in
18 the County of San Riverside, State of California, and (b) the employer of Plaintiffs consistent
19 with the California Labor Code and Industrial Welfare Commission Wage Orders ("Wage
20 Orders").

21 10. Plaintiffs further allege that Defendants, directly or indirectly controlled or
22 affected the working conditions, wages, working hours, and conditions of employment of
23 Plaintiffs and Aggrieved Employees so as to make each of said Defendants employers and
24 employers jointly liable under the statutory provisions set forth herein.

25 **GENERAL ALLEGATIONS**

26 11. Defendants are builders of modular and manufactured homes.

27 12. Defendants have employed Plaintiff VICTOR CORONEL to work as an
28 electrician since approximately September 8, 2018.

1 13. Defendants have employed Plaintiff GUILLERMO MOLINA to work as an
2 electrician since approximately April 16, 2018.

3 14. At all relevant times set forth herein, Defendants employed Plaintiffs and
4 Aggrieved Employees as hourly-paid or non-exempt employees.

5 15. Throughout the time period involved in this case, Defendants had the authority to
6 hire and terminate Plaintiffs and Aggrieved Employees; to directly or indirectly control work
7 rules, working conditions, wages, working hours, and conditions of employment of Plaintiffs and
8 Aggrieved Employees; and to hire and terminate the employment of Plaintiffs and Aggrieved
9 Employees.

10 16. At all times herein mentioned, Defendants were subject to the Labor Code of the
11 State of California and the applicable Industrial Welfare Commission Orders.

12 17. Plaintiffs are informed and believes, and thereon alleges that Defendants engaged
13 in an ongoing and systematic scheme of wage abuse against their hourly-paid or non-exempt
14 employees. As set forth in more detail below, this scheme involved, *inter alia*, regularly requiring
15 Plaintiffs and Aggrieved Employees to work off the clock without compensation, thereby failing
16 to pay them for all hours worked, including minimum and overtime wages. Defendants also
17 implemented time rounding practices that resulted in the systematic underpayment of wages to
18 Plaintiffs and the Aggrieved Employees, including minimum and overtime wages. Defendants
19 also implemented policies that prohibited Plaintiffs and the Aggrieved Employees from
20 accurately recording the actual time worked, resulting in a failure to pay Plaintiffs and the
21 Aggrieved Employees all wages owed. Moreover, and as a matter of policy and/or practice,
22 Employer failed to pay overtime to Plaintiffs and the Aggrieved Employees for all overtime hours
23 worked based on regular rates of pay correctly calculated to include all applicable remuneration.
24 In addition, Defendants routinely failed to permit Plaintiffs and the Aggrieved Employees to take
25 timely and duty-free meal periods and rest periods in violation of California law. Defendants also
26 failed to reimburse Plaintiffs and the Aggrieved Employees for all necessary business-related
27 expenses.

28 18. Throughout the time period involved in this case, Defendants have implemented

1 policies and practices which failed to provide Plaintiffs and the Aggrieved Employees with timely
2 and duty-free meal periods. Defendants routinely failed to relieve Plaintiffs and the Aggrieved
3 Employees of all duties during their meal periods, regularly failed to relinquish control over
4 Plaintiffs and the Aggrieved Employees during their meal periods, regularly failed to permit
5 Plaintiffs and the Aggrieved Employees a reasonable opportunity to take their meal periods, and
6 regularly impeded or discouraged Plaintiffs and the Aggrieved Employees from taking thirty (30)
7 minute uninterrupted meal breaks no later than the end of their fifth hour of work and/or from
8 taking a second thirty (30) minute uninterrupted meal break no later than their tenth hour of work
9 for shifts lasting more than ten (10) hours. Defendants also failed to maintain accurate records of
10 meal periods taken by Plaintiffs and the Aggrieved Employees.

11 19. Throughout the time period involved in this case, Defendants did not adequately
12 inform Plaintiffs and the Aggrieved Employees of their right to take meal periods under California
13 law. Moreover, Defendants systematically disregarded their own written policies regarding the
14 provision and timing of meal periods for Plaintiffs and the Aggrieved Employees. Instead,
15 Defendants' actual policy and practice was to schedule Plaintiffs and the Aggrieved Employees
16 in a way the prohibited them from taking timely and duty-free meal periods, and to require
17 Plaintiffs and the Aggrieved Employees to work through their meal periods, for which they were
18 not compensated.

19 20. Throughout the time period involved in this case, Defendants failed to pay
20 Plaintiffs and the Aggrieved Employees premium wages for meal periods that were missed, late,
21 interrupted, or shortened in violation of California law. Defendants knew or should have known
22 that Plaintiffs and the Aggrieved Employees were entitled to receive all meal periods or payment
23 of one additional hour of pay at their regular rate of pay when a meal period was missed, short,
24 late, and/or interrupted. Notwithstanding this knowledge, Defendants routinely failed to provide
25 legally compliant meal periods to Plaintiffs and the Aggrieved Employees, and routinely failed
26 pay one additional hour of pay to Plaintiffs and the Aggrieved Employees at their regular rate of
27 pay when a meal period was missed, short, late, and/or interrupted.

28 21. Throughout the time period involved in this case, Defendants have implemented

1 policies and practices which prohibited Plaintiffs and the Aggrieved Employees from taking
2 timely and duty-free rest periods. Defendants regularly failed to provide, authorize, and permit
3 Plaintiffs and the Aggrieved Employees to take full, uninterrupted, off-duty rest periods for every
4 shift lasting three and one-half (3.5) to six (6) hours and/or two full, uninterrupted, off-duty rest
5 periods for every shift lasting six (6) to ten (10) hours, and failed to make a good faith effort to
6 authorize, permit, and provide such rest breaks in the middle of each work period.

7 22. Throughout the time period involved in this case, Defendants did not adequately
8 inform Plaintiffs and the Aggrieved Employees of their right to take rest periods under California
9 law. Moreover, Defendants systematically disregarded their own written policies regarding the
10 provision and timing of rest periods for Plaintiffs and the Aggrieved Employees. Instead,
11 Defendants' actual policy and practice was to schedule Plaintiffs and the Aggrieved Employees
12 in a way that regularly prohibited them from taking timely and duty free rest periods, and to
13 regularly require Plaintiffs and the Aggrieved Employees to work through their rest periods.

14 23. Throughout the time period involved in this case, Defendants failed to pay
15 Plaintiffs and the Aggrieved Employees premium wages for rest periods that were missed, late,
16 interrupted, or shortened in violation of California law. Defendants knew or should have known
17 that Plaintiffs and the Aggrieved Employees were entitled to receive all rest periods or payment
18 of one additional hour of pay at their regular rate of pay when a rest period was missed, short,
19 late, and/or interrupted. Notwithstanding this knowledge, Defendants routinely failed to authorize
20 and permit Plaintiffs and the Aggrieved Employees to take duty-free rest periods, and failed to
21 pay one additional hour of pay to Plaintiffs and the Aggrieved Employees at their regular rate of
22 pay when a rest period was missed, short, late and/or interrupted.

23 24. Throughout the time period involved in this case, Defendant regularly required
24 Plaintiffs and the Aggrieved Employees to perform work off-the-clock including, *inter alia*,
25 requiring Plaintiffs and Aggrieved Employees to undergo mandatory security checks and perform
26 work outside of their scheduled hours. Plaintiffs and the Aggrieved Employees were not
27 compensated for this off-the-clock work.

28 25. Throughout the time period involved in this case, Defendants employed a time

1 rounding policy that was not neutral and designed to consistently round time in Defendants' favor,
2 ensuring that Plaintiffs and the Aggrieved Employees were oftentimes not paid for all time worked.

3 26. Throughout the time period involved in this case, Defendants implemented policies
4 that prohibited Plaintiffs and the Aggrieved Employees from accurately recording the actual time
5 worked, resulting in a failure to pay Plaintiffs and the Aggrieved Employees all wages owed.

6 27. Throughout the time period involved in this case, Plaintiffs and the Aggrieved
7 Employees worked more than eight (8) hours in a day, and/or forty (40) hours in a week.

8 28. Throughout the time period involved in this case, Defendants regularly failed to
9 pay overtime compensation to Plaintiffs and the Aggrieved Employees when they worked in
10 excess of eight (8) hours in a single work day and/or forty (40) hours in a single work week.
11 Defendants knew or should have known that Plaintiffs and the Aggrieved Employees were
12 entitled to receive certain wages for overtime compensation and that they were not receiving
13 wages for overtime compensation.

14 29. Throughout the time period involved in this case, Defendants failed to pay
15 overtime to Plaintiffs and the Aggrieved Employees for all overtime hours worked based on
16 regular rates of pay correctly calculated to include all applicable remuneration.

17 30. Throughout the time period involved in this case, Defendants regularly failed to
18 pay Plaintiffs and the Aggrieved Employees at least minimum wages for all hours worked.
19 Defendants knew or should have known that Plaintiffs and the Aggrieved Employees were
20 entitled to receive at least minimum wages for all hours worked and that they were not receiving
21 at least minimum wages for all hours worked. Defendants' failure to pay minimum wages
22 included, *inter alia*, failing to pay Plaintiffs and the Aggrieved Employees at the required
23 minimum wage pursuant to California law, requiring Plaintiffs and the Aggrieved Employees to
24 perform work off the clock, implementing time rounding policies that resulted in the systematic
25 underpayment of wages to Plaintiffs and the Aggrieved Employees, and failing to accurately
26 record all actual time worked by Plaintiffs and the Aggrieved Employees, which resulted in a
27 failure to pay Mr. Aparicio and Aggrieved Employees for all hours actually worked, including
28 minimum wages, straight time wages and overtime wages.

1 31. Throughout the time period involved in this case, Defendants regularly failed to
2 pay overtime to Plaintiffs and the Aggrieved Employees for all overtime hours worked based on
3 regular rates of pay correctly calculated to include all applicable remuneration.

4 32. Throughout the time period involved in this case, Defendants regularly failed to
5 pay Plaintiffs and the Aggrieved Employees all wages owed to them upon discharge or
6 resignation. Defendant knew or should have known that Plaintiffs and the Aggrieved Employees
7 were entitled to receive all wages owed to them upon termination within the time permissible
8 under California Labor Code section 202. Plaintiffs and the Aggrieved Employees did not receive
9 payment of all final wages owed to them upon discharge or resignation, including overtime
10 compensation and minimum wages within any time permissible under California Labor Code
11 section 202.

12 33. Throughout the time period involved in this case, Defendants regularly failed to
13 pay Plaintiffs and the Aggrieved Employees all wages within any time permissible under
14 California law, including, *inter alia*, California Labor Code section 204. Defendants knew or
15 should have known that Plaintiffs and the Aggrieved Employees were entitled to receive all wages
16 owed to them during their employment. Plaintiffs and the Aggrieved Employees did not receive
17 payment of all wages, including overtime compensation, minimum wages, and meal and rest
18 period premiums, within any time permissible under California Labor Code section 204.

19 34. Throughout the time period involved in this case, Defendants regularly failed to
20 provide complete or accurate wage statements to Plaintiffs and the Aggrieved Employees.
21 Defendants knew or should have known that Plaintiffs and the Aggrieved Employees were
22 entitled to receive complete and accurate wage statements in accordance with California law, but,
23 in fact, they did not receive complete and accurate wage statements from Defendants. The
24 deficiencies included, *inter alia*, the failure to include the total number of hours worked and the
25 actual gross wages earned.

26 35. Throughout the time period involved in this case, Defendants regularly failed to
27 keep complete or accurate payroll records for Plaintiffs and the Aggrieved Employees.
28 Defendants knew or should have known that Defendants were required keep complete and

1 accurate payroll records for Plaintiffs and the Aggrieved Employees in accordance with California
2 law, but, in fact, did not keep complete and accurate payroll records.

3 36. Throughout the time period involved in this Case, Defendants failed to reimburse
4 Plaintiffs and the Aggrieved Employees for all necessary business-related expenses, including but
5 not limited to use of their personal tools for work-related purposes. Defendants knew or should
6 have known that Defendants were required to reimburse Plaintiffs and the Aggrieved Employees
7 for all necessary business-related expenses and costs, but, in fact, failed to do so in violation of
8 California law.

9 37. Throughout the time period involved in this case, Defendants knew or should have
10 known that they had a duty to compensate Plaintiffs and the Aggrieved Employees pursuant to
11 California law. Defendants had the financial ability to pay such compensation, but willfully,
12 knowingly, and intentionally failed to do so, and falsely represented to Plaintiffs and the
13 Aggrieved Employees that they paid all wages owed to them, all in order to increase Defendants'
14 profits.

15 38. On or about June 3, 2020, Plaintiffs notified Defendants via certified mail and filed
16 an online PAGA claim notice with the California Labor and Workforce Development Agency
17 ("LWDA") identifying Defendants' violations of the California Labor Code identified in this
18 Complaint and Plaintiffs' intent to bring a claim for civil penalties under California Labor Code
19 section 2698 *et seq.* in accord with Cal. Lab. Code section 2699.3. More than 65 days has passed
20 since the submission of the PAGA claim notice, and the LWDA has not responded to Plaintiffs'
21 PAGA claim notice.

22 **FIRST CAUSE OF ACTION**

23 **(Violation of California Labor Code § 2699, Et Seq.)**

24 **(Against All Defendants)**

25 39. Plaintiffs incorporate by reference and re-alleges as if fully stated herein each and
26 every allegation set forth above.

27 40. Plaintiffs brings their first cause of action as a representative action on behalf of
28 themselves and similarly Aggrieved Employees in the capacity as a private attorney general

pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, et seq. (“PAGA”).

41. PAGA specifically provides for a private right of action to recover civil penalties for violations of the Labor Code as follows: “Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3.” Cal. Lab. Code § 2699(a).

42. Plaintiffs were employed by Defendants and the Labor Code violations alleged above were committed against them during their time of employment. Plaintiffs and the other non-exempt employees of Defendants are therefore “aggrieved employees” as defined by California Labor Code section 2699(c) in that they are all current or former employees of Defendants, and one or more of the alleged violations were committed against them.

43. As set forth in detail above, during all times relevant to this Action, Defendants have routinely subjected Plaintiffs and the Aggrieved Employees to violations of California Labor Codes by:

- a. Failing to pay Plaintiffs and the Aggrieved Employees all earned minimum wage compensation in violation of Labor Code §§ 1194 and 1198 *et seq.*;
- b. Failing to pay Plaintiffs and the Aggrieved Employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 1194, and 1198 *et seq.*;
- c. Failing to provide legally required meal periods to Plaintiffs and the Aggrieved Employees, and failing to pay Plaintiffs and the Aggrieved Employees an additional hour of premium pay for meal period violations in violation of Labor Code §§ 226.7 and 512.
- d. Failing to provide authorize and permit Plaintiffs and the Aggrieved Employees to take duty-free rest periods, and failing to pay Plaintiffs and the Aggrieved

Employees an additional hour of premium pay for rest period violations in violation of Labor Code §§ 226.7 and 512.

- e. Failing to timely pay Plaintiffs and the Aggrieved Employees all wages at end of their employment in violation of Labor Code § 203.
- f. Failing to timely pay Plaintiffs and the Aggrieved Employees all wages owed during employment in violation of Labor Code § 204.
- g. Failing to furnish Plaintiffs and the Aggrieved Employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;
- h. Failing to maintain accurate records relating to Plaintiffs and the Aggrieved Employees' work periods, meal periods, total daily hours, hours per pay period, and applicable pay rates in violation of Labor Code § 1174(d) and the applicable IWC Wage Order.
- i. Failing to reimburse Plaintiffs and the Aggrieved Employees for necessary business-related expenses in violation of Labor Code §§ 2800 and 2802

44. Pursuant to California Labor Code sections 2699 and 2699.5, Plaintiffs, individually and on behalf of the Aggrieved Employees and the State of California, request and are entitled to recover penalties against Defendants for the Labor Code violations described above, including but not limited to penalties under California Code of Regulations Title section 11010, penalties under California Labor Code sections 2699, 558, 210, 1197.1, 226, 226.3 and 1174.5, and any and all additional penalties and sums as provided by the California Labor Code and/or other statutes. The exact amount of the applicable penalties, in all, is in an amount to be shown according to proof at trial.

45. Plaintiffs have exhausted their administrative remedies pursuant to Labor Code § 2699.3. On June 3, 2020, Plaintiffs, through their counsel of record, by online filing with the Labor and Workforce Development Agency ("LWDA") and by certified mail to the Defendants, notified Defendants and the LWDA of the specific provisions of the Labor Code and IWC Wage Orders that Defendants have violated, including the facts and theories to support the violations, and of Plaintiffs' intent to bring a claim for civil penalties under PAGA. Plaintiffs also paid the filing fee

1 required under Labor Code § 2699.3. As of the filing of this Complaint, more than 65 days have
2 elapsed since the mailing of Plaintiffs' June 3, 2020 notice, and the Labor and Workforce
3 Development Agency has not indicated that it intends to investigate the violations discussed in the
4 notice. Accordingly, Plaintiffs may commence a civil action to recover penalties for themselves
5 and other Aggrieved Employees pursuant to Labor Code § 2699.3.

6 46. Plaintiffs were compelled to retain the services of counsel to file this court action
7 to protect their interests and the Aggrieved Employees, and to assess and collect the civil penalties
8 owed by Defendants. Plaintiffs therefore seek an award of reasonable attorney's fees and costs
9 pursuant to Labor Code § 2699(g)(1), and any other applicable statute.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiffs, individually and on behalf of all other aggrieved employees
12 and as a private attorney general, prays for relief and judgment against Defendants, jointly and
13 severally, as follows:

14 **As to the First Cause of Action**

- 15 1. For statutory attorneys' fees and costs pursuant to 2699(g)(1) of California Labor
16 Code;
17 2. For the imposition of civil penalties pursuant to California Labor Code §§ 2699,
18 210, 558, 226, 226.3, 1174.5, 1197.1, 2802 and all other penalties allowed by the California Labor
19 Code and/or other applicable statutes; and
20 3. For such other relief as the Court deems just and proper

21 Dated: August 10, 2020

PROTECTION LAW GROUP

22
23 By: 

24 Heather Davis
25 Amir Nayebdadash
26 S. Emi Minne

27 Attorneys for Plaintiffs
28 VICTOR CORONEL and GUILLERMO
MOLINA

DEMAND FOR TRIAL BY JURY

Plaintiffs demand a trial by jury as to all causes of action triable by a jury.

Dated: August 10, 2020

PROTECTION LAW GROUP

By: 

Heather Davis
Amir Nayebdadash
S. Emi Minne

Attorneys for Plaintiffs
VICTOR CORONEL and GUILLERMO
MOLINA