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County of Los Angeles

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

EDWARD SALGADO, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

S.R.BRAY LLC, a California limited liability
company d/b/a Power Plus!; POWER PLUS
LLC, a California limited liability company;
and DOES 1 through 100,

Defendants.

Case No.: 20STCV20349

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) **MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);**
- (2) **FAILURE TO PAY ALL OVERTIME
WAGES (LABOR CODE §§ 204, 510,
558, 1194, AND 1198);**
- (3) **FAILURE TO PAY ALL
REPORTING TIME PAY (WAGE
ORDER 4-2001)**
- (4) **MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 558);**
- (5) **WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (6) **WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226 *et seq.*);**
- (7) **UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*); AND**
- (8) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

FILED

1 Plaintiff Edward Salgado ("Plaintiff") on behalf of himself and all others similarly
2 situated, hereby brings this First Amended Class and Representative Action Complaint against
3 Defendants S.R.Bray LLC, a California limited liability company doing business as Power Plus!;
4 Power Plus LLC, a California limited liability company; and DOES 1 to 100, inclusive
5 (collectively "Defendants"), and on information and belief alleges as follows:

6 **JURISDICTION**

7 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
8 action for recovery of unpaid wages and penalties under California Labor Code sections §§ 201-
9 204, 226 *et seq.*, 226.7, 510, 512, 558, 1182.12, 1194, 1194.2, 1197, 1198, and 2698 *et seq.*, and
10 Business and Professions Code section 17200 *et. seq.*, and Industrial Welfare Commission Wage
11 Order 4 ("Wage Order 4"), in addition to seeking declaratory relief and restitution. This action is
12 brought pursuant to California Code of Civil Procedure section 382. This Court has jurisdiction
13 over Defendants' violations of the California Labor Code because the amount in controversy
14 exceeds this Court's jurisdictional minimum.

15 2. This Court has jurisdiction over Defendants because, upon information and belief,
16 Defendants have sufficient minimum contacts in California, or otherwise intentionally avails
17 itself/themselves to the California market so as to render the exercise of jurisdiction over it/them
18 by the California courts consistent with the traditional notions of fair play and substantial justice.

19 **VENUE**

20 3. Venue is proper in this judicial district pursuant to California Code of Civil
21 Procedure sections 395(a) and 395.5, as at least some of the acts and omissions complained of
22 herein occurred in the County of Los Angeles. Defendants own, maintain offices, transact
23 business, have an agent or agents within the County of Los Angeles, and/or otherwise are found
24 within the County of Los Angeles, and Defendants are within the jurisdiction of this Court for
25 purposes of service of process.

26 **PARTIES**

27 4. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
28 Plaintiff was and currently is, a California resident. Within the statute of limitations periods

1 applicable to each cause of action pled herein, Plaintiff was employed by Defendants as a non-
2 exempt employee, and performed work for Defendants within California. Plaintiff was, and is, a
3 victim of Defendants' policies and/or practices complained of herein, lost money and/or property,
4 and has been deprived of the rights guaranteed by Labor Code sections §§ 201-204, 226 *et seq.*,
5 226.7, 510, 512, 558, 1182.12, 1194, 1194.2, 1197, 1198 and 2698 *et seq.*, California Business
6 and Professions Code section 17200 *et seq.* ("Unfair Competition Law"), and Wage Order 4,
7 which sets employment standards for employees in the technical industry.

8 5. Plaintiff is informed and believes, and based thereon alleges, that during the statute
9 of limitations and continuing to the present, Defendants did (and continue to do) business within
10 the County of Los Angeles and the State of California by providing power installation services to
11 customers throughout the United States, including customers located in Los Angeles County.
12 Defendants also maintain its headquarters in the County of Los Angeles and State of California,
13 and employed Plaintiff in the State of California, and therefore, were (and are) doing business in
14 the County of Los Angeles and the State of California.

15 6. Plaintiff does not know the true names or capacities, whether individual, partner,
16 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
17 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
18 further amend this Complaint when such true names and capacities are discovered. Plaintiff is
19 informed, and believes, and based thereon alleges, that each of said fictitious defendants, whether
20 individual, partners, or corporate, were responsible in some manner for the acts and omissions
21 alleged herein, and proximately caused Plaintiff and the Classes (as defined herein) to be subject
22 to the unlawful employment practices, wrongs, injuries and damages complained of herein.

23 7. Plaintiff is informed and believes, and based thereon alleges, that at all times
24 mentioned herein, Defendants were and are the employers of Plaintiff and all members of the
25 Classes.

26 8. At all times herein mentioned, each of said Defendants participated in the doing
27 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
28 Defendants, and each of them, were the agents, servants, and employees of each and every one of

1 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
2 were acting within the course and scope of said agency and employment. Defendants, and each
3 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
4 omissions complained of herein.

5 9. At all times mentioned herein, Defendants, and each of them, were members of
6 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
7 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
8 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all
9 members of the Classes.

10 **GENERAL FACTUAL ALLEGATIONS**

11 10. Plaintiff was employed by Defendants as a non-exempt employee from
12 approximately April 2016 through May 2020. From approximately March 13, 2018 until
13 approximately May 13, 2020, Plaintiff was on a medical leave of absence. Plaintiff separated
14 from his employment with Defendants on approximately May 13, 2020 but did not receive his
15 final wage statement with accrued vacation wages until June 19, 2020.

16 11. Throughout Plaintiff's employment with Defendants, Plaintiff regularly worked in
17 excess of 8.0 hours per workday (at times working in excess of 12.0 hours) and/or 40.0 hours per
18 workweek but did not receive overtime compensation equal to one and one-half times his regular
19 rate of pay for these overtime hours. Specifically, Plaintiff and other non-exempt employees
20 earned non-discretionary incentive bonuses, and other forms of pay that cannot be excluded from
21 the regular rate of pay as a matter of law, including but not limited to, payments denoted in their
22 wage statements as "Bonus," "Profit Sharing," and "On Call" (hereinafter collectively referred
23 to as "Incentive Pay"). As a result of Defendants' payment of Incentive Pay to Plaintiff and other
24 non-exempt employees, Defendants miscalculated Plaintiff's and other non-exempt employees'
25 regular rate of pay, resulting in a systematic underpayment of overtime wages when Plaintiff and
26 other non-exempt employees worked overtime hours during the same time period for which the
27 Incentive Pay was earned.

28 12. Defendants also failed to pay Plaintiff and other non-exempt employees all

reporting time wages owed. During Plaintiff's employment with Defendants, Defendants required Plaintiff and other nonexempt employees to work on call shifts, during which Plaintiff and other non-exempt employees had to be available to receive a call at any point during the workday. On information and belief, if Plaintiff and other non-exempt employees received a call during an on call shift, they only had a limited amount of time to respond to the call and arrive at the worksite. If the employee failed to answer the call and/or arrive at the worksite within a specified amount of time, he or she would be disciplined. On occasions when Plaintiff and other non-exempt employees were required to work scheduled on call shifts, but were not called in to work or were furnished less than half of their usual or scheduled day's work, Defendants failed to pay Plaintiff and other non-exempt employees with half their usual or scheduled day's work (but in no event less than two hours nor more than four hours), at their regular rate of pay in violation of Wage Order 4 § 5 and Labor Code § 1198.

13. Defendants failed to provide Plaintiff and other non-exempt employees with all legally compliant meal periods of at least 30-minutes commencing before the conclusion of the fifth hour of work and/or a second meal period when they worked shifts in excess of 10.0 hours. As Plaintiff and other non-exempt employees were required to provide installation services at five to six different locations per shift, Plaintiff and other employees were often required to take a meal period that was less than 30-minutes and/or take their meal periods while commuting in between jobs. Additionally, Defendants failed to keep accurate records of employee hours worked, including time records showing when employees were provided with meal periods. During Plaintiff's employment with Defendants, Defendants did not require Plaintiff and other non-exempt employees to clock in and out for their meal periods, and maintained no other records of employee meal periods. Defendants also did not cease operations during meal periods. Instead, Defendants automatically deducted 30-minutes from employee time records regardless if they were actually provided with a legally compliant 30-minute meal period. As a result of Defendants failure to provide all legally required meal periods, unlawful deduct policy, and failure to accurately record employee meal periods, Defendants failed to compensate their employees with the required meal period premium for each workday in which employees experienced a meal

1 period violation as well as compensate its employees for all minimum and overtime wages earned.

2 14. Additionally, as a result of Defendants' failure to compensate Plaintiff and other
3 non-exempt employees for all minimum wages, overtime wages, reporting time pay, and meal
4 period premium wages earned, Defendants maintained inaccurate payroll records, issued
5 inaccurate wage statements to Plaintiff, and failed to pay Plaintiff all wages due at his separation
6 of employment. Additionally, Defendants issued facially deficient wage statements that failed to
7 include all applicable hourly rates in effect during the period and the corresponding number of
8 hours worked at each hourly rate, including the hourly rate and corresponding number of hours
9 for "on call" pay as well as the applicable hourly rate for double time and vacation pay.

10 15. Pursuant to California Judicial Council Emergency Rule 9, statutes of limitations
11 of more than 180 days are suspended from April 6, 2020 through October 1, 2020. Accordingly,
12 the relevant time period for each cause of action pled herein have been calculated based on a filing
13 date of April 6, 2020.

14 **CLASS ACTION ALLEGATIONS**

15 16. **Class Definitions:** Plaintiff brings this action on behalf of himself and the
16 following Classes pursuant to section 382 of the Code of Civil Procedure:

17 a. The Minimum Wage Class consists of all of Defendants' current and former non-
18 exempt employees in California who (i) worked at least one shift in excess of 5.0
19 hours and were subject to Defendants' meal period policies/practices, (ii) worked
20 at least one shift in excess of 10.0 hours and were subject to Defendants' meal
21 period policies/practices, and/or (iii) worked at least one on call shift, during the
22 period of April 6, 2016 through the present.

23 b. The Overtime Class consists of all of Defendants' current and former non-exempt
24 employees in California who worked more than 8 hours in a workday and/or more
25 than 40 hours in a workweeks and (i) received Incentive Pay, (ii) worked at least
26 one shift in excess of 5.0 hours and were subject to Defendants' meal period
27 policies/practices; and/or (iii) worked at least one shift in excess of 10.0 hours and
28 were subject to Defendants' meal period policies/practices, during the period of

April 6, 2016 through the present.

c. The Meal Period Class consists of all Defendants' current and former non-exempt employees in California who (i) worked at least one shift in excess of 5.0 hours and were subject to Defendants' meal period policies/practices; or (ii) worked at least one shift in excess of 10.0 without a second 30-minute meal period commencing prior to the end of the tenth hour of work, during the period of April 6, 2016 through the present.

d. The Waiting Time Class consists of all members of the Overtime Class, Minimum Wage Class, and/or Meal Period Class who separated their employment with during the period of April 6, 2017 through the present.

e. The Wage Statement Class consists of (i) all Defendants' current and former non-exempt employees who received on call pay; (ii) all Defendants' current and former non-exempt employees who received vacation wages; (iii) all Defendants' current and former non-exempt employees who received double time wages; and/or (iv) all members of the Overtime Class, Minimum Wage Class, and/or Meal Period Class, who received a wage statement from Defendants, during the period of April 6, 2019 through the present.

17. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes is unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than Two hundred (200) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

18. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated non-exempt employees, which predominate over questions affecting only individual members including, without limitation to:

i. Whether Defendants paid all minimum wages owed to members of the Minimum Wage Class for all hours worked pursuant to Labor Code sections 1182.12, 1194,

1194.2 and 1197;

- ii. Whether Defendants violated the applicable Labor Code provisions, including, but not limited to, sections 510 and 1194 by requiring members of the Overtime Class to perform overtime work and not paying for said work in accordance with the overtime laws of the State of California;
- iii. Whether Defendants provided all reporting time pay to members of the Minimum Wage Class pursuant to Wage Order 4 § 5, Labor Code §§ 204; and
- iv. Whether Defendants' timekeeping policies/practices resulted in the failure to properly compensate members of the Overtime Class, Minimum Wage Class, and/or Meal Period Class;
- v. Whether Defendants provided legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code sections 226.7 and 512;
- vi. Whether Defendants correctly paid meal period premium payments for non-compliant meal periods pursuant to Labor Code section 226.7;
- vii. Whether Defendants paid all compensation due upon separation to members of the Waiting Time Class pursuant to Labor Code sections 201-203; and
- viii. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code section 226.

19. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, Defendants' uniform timekeeping policies/practices, Defendants' overtime policies/practices, reporting time policies/practices, meal period policies/practices, and wage statements policies/practices. As such, common questions predominate over individual questions concerning each individual class member's showing as to their eligibility for recovery or as to the amount of their damages.

20. **Typicality:** Plaintiff's claims are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California during the

statute(s) of limitations period applicable to each cause of action pled in the action. As alleged herein, Plaintiff, like the members of the Classes, was deprived of all overtime and minimum wages owed, was not paid all reporting time pay, was not provided all required meal periods, was not paid all wages owed at the time of separation, and was not furnished with accurate itemized wage statements.

21. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's attorneys are ready, willing and able to fully and adequately represent the members of the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-and-hour class actions in state and federal courts in the past and are committed to vigorously prosecuting this action on behalf of the members of the Classes.

22. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Classes to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. Further, the prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would

1 establish potentially incompatible standards of conduct for Defendants; and/or legal
2 determinations with respect to individual class members which would, as a practical matter, be
3 dispositive of the interest of the other class members not parties to adjudications or which would
4 substantially impair or impede the ability of the class members to protect their interests. Further,
5 the claims of the individual members of the Classes are not sufficiently large to warrant vigorous
6 individual prosecution considering all of the concomitant costs and expenses attending thereto.
7 As such, the Classes identified herein are maintainable as a Class under section 382 of the Code
8 of Civil Procedure.

9 **FIRST CAUSE OF ACTION**

10 **MINIMUM WAGE VIOLATIONS**

11 **(AGAINST ALL DEFENDANTS)**

12 23. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

13 24. Wage Order 4, § 4 and California Labor Code §§ 1197 and 1182.12 establish the
14 right of employees to be paid minimum wages for all hours worked, in amounts set by state law.
15 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal
16 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
17 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid
18 wages and interest accrued thereon.

19 25. At all relevant times herein, Defendants failed to conform their pay practices to
20 the requirements of the law by failing to pay Plaintiff and members of the Minimum Wage Class
21 for all hours worked including, but not limited to, all hours they were subject to the control of
22 Defendants and/or suffered or permitted to work under the California Labor Code and Wage
23 Order 4.

24 26. California Labor Code § 1198 makes unlawful the employment of an employee
25 under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide
26 that an employer who has failed to pay its employees the legal minimum wage is liable to pay
27 those employees the unpaid balance of the unpaid wages as well as liquidated damages in an
28 amount equal to the wages due and interest thereon.

27. As a direct and proximate result of Defendants' unlawful conduct as alleged herein, Plaintiff and the Minimum Wage Class have sustained economic damages including, but not limited to, unpaid wages and lost interest, in an amount to be established at trial, and are entitled to recover economic and statutory damages and penalties and other appropriate relief as a result of Defendants' violations of the California Labor Code and Wage Order 4.

28. The foregoing practices and policies are unlawful and create an entitlement to recovery by Plaintiff and the members of the Minimum Wage Class in a civil action for the unpaid amount of minimum wages owing, including interest thereon, liquidated damages, statutory and civil penalties, attorney's fees, and costs of suit according to California Labor Code §§ 204, 558, 1194, 1197, and 1198, Wage Order 4, and Code of Civil Procedure § 1021.5.

SECOND CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

(AGAINST ALL DEFENDANTS)

29. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

30. This cause of action is brought pursuant to Labor Code §§ 204, 510, 1194, and 1198, which provide that non-exempt employees are entitled to all overtime wages and compensation for all overtime hours worked and provide a private right of action for the failure to pay all overtime compensation for overtime work performed.

31. At all times relevant herein, Defendants were required to properly compensate non-exempt employees, including Plaintiff and members of the Overtime Class, for all overtime hours worked pursuant to California Labor Code § 1194 and Wage Order 4. Defendants caused Plaintiff to work overtime and hours but did not credit Plaintiff or members of the Overtime Pay Class with all overtime hours actually worked, and did not compensate Plaintiff or members of the Overtime Pay Class at one and one-half times their regular rate of pay for such hours or at double the regular rate of pay for hours worked for such hours.

32. The foregoing policies and practices are unlawful and create entitlement to recovery by Plaintiff and the Overtime Class Members in a civil action for the unpaid amount of overtime premiums owing, including interest thereon, statutory penalties, attorneys' fees, and

costs of suit according to California Labor Code §§ 204, 210, 216, 510, 1194, and 1198; and Code of Civil Procedure § 1021.5.

THIRD CAUSE OF ACTION

FAILURE TO PAY REPORTING TIME PAY

(AGAINST ALL DEFENDANTS)

33. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

34. Wage Order 4 § 5 provides that “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employees regular rate of pay, which shall not be less than the minimum wage. Wage Order 4, § 5 establishes a guarantee of at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer.

35. As alleged herein, Defendants have failed to pay Plaintiff and the Minimum Wage Class required reporting time pay, when Plaintiff and the Minimum Wage Class were required to remain on call but were not called into work. On information and belief, Defendants only compensated members of the Minimum Wage Class for their on call shifts if they were called to come into work in violation of Wage Order 4 § 5 and Labor Code § 204 and 1198.

36. The foregoing violations create an entitlement to recovery by Plaintiff and members of the Minimum Wage Class in a civil action for the unpaid amount of reporting time pay, including interest thereon, attorney’s fees and costs of suit according to California Labor Code §§ 204 and 1198.

FOURTH CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

37. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

38. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in their affirmative obligation to provide all of their non-exempt employees in California,

1 including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods
2 in accordance with the mandates of the California Labor Code and Wage Order 4, § 11, for the
3 reasons set forth in the factual allegations and class definitions sections of this Complaint. Despite
4 Defendants' violations, Defendants did not pay an additional hour of premium pay to Plaintiff
5 and members of the Meal Period Class for each violation in accordance with California Labor
6 Code §§ 226.7 and 512.

7 39. As a result, Defendants are responsible for paying premium compensation for meal
8 period violations, including interest thereon, statutory penalties, civil penalties, and costs of suit,
9 pursuant to Labor Code §§ 226.7, 512, and 558, Wage Order 4, and Code of Civil Procedure §
10 1021.5.

11 **FIFTH CAUSE OF ACTION**
12 **WAITING TIME PENALTIES**
13 **(AGAINST ALL DEFENDANTS)**

14 40. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

15 41. This cause of action is brought pursuant to Labor Code §§ 201-203, which require
16 an employer to pay all wages earned immediately at the time of separation of employment in the
17 event the employer discharges the employee, or if the employee provides at least 72 hours of
18 notice of his/her intent to quit. In the event the employee provides less than 72 hours of notice of
19 his/her intent to quit, said employee's wages become due and payable not later than 72 hours upon
20 said employee's last date of employment.

21 42. Plaintiff is informed and believes, and based thereon alleges, that Defendants
22 failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them
23 at the time of their separation including, among other things, underpaid meal and rest period
24 premium wages. Further, Plaintiff is informed and believes, and based thereon alleges, that as a
25 matter of uniform policy and practice, Defendants continue to fail to pay members of the Waiting
26 Time Class all earned wages at the end of employment in a timely manner pursuant to the
27 requirements of Labor Code §§ 201-203. Defendants' failure to pay all final wages was willful
28 within the meaning of Labor Code § 203.

1 43. Defendants' willful failure to timely pay Plaintiff and members of the Waiting
2 Time Class all earned wages upon separation from employment results in a continued payment
3 of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and
4 members of the Waiting Time Class are entitled to compensation pursuant to Labor Code § 203,
5 plus reasonable attorneys' fees and costs of suit.

6 **SIXTH CAUSE OF ACTION**

7 **WAGE STATEMENT VIOLATIONS**

8 **(AGAINST ALL DEFENDANTS)**

9 44. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

10 45. Plaintiff is informed and believes, and based thereon alleges, that Defendants
11 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
12 and members of the Wage Statement Class with complete and accurate wage statements that
13 included, among other requirements, all overtime and minimum wages earned, and all meal and
14 rest period premium wages owed in violation of Labor Code sections 226 et seq.

15 46. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class
16 with complete and accurate, itemized wage statements resulted in actual injury, as said failures
17 led to, among other things, the non-payment of all minimum and overtime wages owed, all meal
18 and rest period premium wages owed, and deprived them of the information necessary to identify
19 the discrepancies in Defendants' reported data.

20 47. Defendants' failures create an entitlement to recovery by Plaintiff and members of
21 the Wage Statement Class in a civil action for damages and/or penalties pursuant to Labor Code
22 sections 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and
23 costs of suit according to California Labor Code section 226 *et seq.*

24 **SEVENTH CAUSE OF ACTION**

25 **UNFAIR COMPETITION**

26 **(AGAINST ALL DEFENDANTS)**

27 48. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

28 49. Defendants have engaged and continue to engage in unfair and/or unlawful

business practices in California in violation of California Business and Professions Code § 17200 et seq. by, amongst other things, failing to pay Plaintiff and the Classes all overtime and minimum wages owed; failing to pay all required reporting time pay; failing to pay all required meal period premium payments; failing to pay all final wages at the time of separation from employment; and knowingly failing to furnish accurate and complete itemized wage statements in violation of Labor Code § 226.

50. Defendants' utilization of these unfair and/or unlawful business practices deprived Plaintiff, and continues to deprive members of the Classes, of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

51. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff, for himself and on behalf of the members of the Classes, seeks full restitution of monies as necessary and according to proof to restore any and all monies withheld, acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

52. The acts alleged herein occurred within the last four years immediately preceding April 6, 2020, the date on which Judicial Council Emergency Rule 9 suspended the statute of limitations for civil causes of action that exceed 180 days.

53. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf of Defendants' current non-exempt employees, and to enforce important rights affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which he is entitled to recover under Code of Civil Procedure § 1021.5.

EIGHTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

(AGAINST ALL DEFENDANTS)

54. Plaintiff re-allege and incorporate by reference all previous paragraphs.

55. Defendants have committed several Labor Code violations against Plaintiff,

members of the Classes, and other aggrieved employees. Plaintiff, is an “aggrieved employee” within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay Plaintiff and other aggrieved employees the statutory minimum wage for all hours worked in violation of Labor Code §§ 1182.12, 1194, 1194.2, 1197;
- b. Failing to pay Plaintiff and other aggrieved employees all overtime compensation earned in violation Labor Code §§ 204, 510, 558, 1194, and 1198;
- c. Failing to provide meal periods as required by law and failing to pay meal period premiums to Plaintiff and other aggrieved employees at the employees’ respective regular rates of compensation for meal period violations in violation of Labor Code §§ 226.7, 512, and 558;

- d. Failing to pay Plaintiff and other aggrieved employees all vacation wages earned at the time of separation from employment in violation of Labor Code § 227.3;
- e. Failing to timely pay all final wages due to Plaintiff and other aggrieved employees in violation of Labor Code §§ 201, 202, and 203;
- f. Failing to furnish Plaintiff and other aggrieved employees with accurate and compliant itemized wage statements in violation of Labor Code § 226;
- g. Failing to pay Plaintiff and other aggrieved employees all wages earned at least twice during each calendar month in violation of Labor Code § 204; and
- h. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees in violation of Labor Code §§ 1174 and 1198.

56. On or around June 1, 2020 Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 et seq. with respect to the violations of the California Labor Code identified in Paragraph 56 (a)-(h). Now that sixty-five days have passed from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

57. Based on the foregoing, Plaintiff seeks to represent herself and all Aggrieved Employees, as defined by Labor Code § 2699(c), which includes all current and former non-exempt employees who worked for Defendants in California between April 6, 2019 and the present.

58. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interest and the interests of other aggrieved piece rate employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and

costs, which he is entitled to recover under California Labor Code § 2699.

PRAYER

WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
4. Upon the First Cause of Action, for payment of minimum wages, liquidated damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and 1197;
5. For the Second Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
6. Upon the Third Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 204, 218 *et seq.*, and 1198;
7. Upon the Fourth Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;
8. Upon the Fifth Cause of Action, for statutory waiting time penalties pursuant to Labor Code §§ 201-203;
9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code section 226 *et. seq.*;
10. Upon the Seventh Cause of Action, for restitution to Plaintiff and members of the Class of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Business and Professions Code § 17200 *et seq.*;
11. Upon the Eighth Cause of Action, for civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or

1 intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus
2 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for each
3 subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for
4 each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1
5 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each
6 subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5)
7 \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay
8 period for those violations of the Labor Code for which no civil penalty is specifically provided,
9 based on the violations of Labor Code sections identified in Paragraph 56 (a)-(h) above.

10 12. Prejudgment interest on all due and unpaid wages pursuant to California Labor
11 Code § 218.6 and Civil Code §§ 3287 and 3289;

12 13. On all causes of action, for attorneys' fees and costs as provided by Labor Code
13 §§ 218.5 and 1194 *et seq.*, and Code of Civil Procedure § 1021.5; and

14 14. For such other and further relief the Court may deem just and proper.

15
16 Dated: August 7, 2020

Respectfully submitted,
HAINES LAW GROUP, APC
By: 
Fletcher W. Schmidt
Attorneys for Plaintiff

20
21 **DEMAND FOR JURY TRIAL**

22 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

23
24 Dated: August 7, 2020

Respectfully submitted,
HAINES LAW GROUP, APC
By: 
Fletcher W. Schmidt
Attorneys for Plaintiff

Edward Salgado v. S.R.Bray LLC, et al..

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On August 7, 2020, I served the foregoing document(s) described as:

on the interested party(ies) in this action as follows:

CADDEN & FULLER LLP
114 Pacifica, Suite 450
Irvine, CA 92618-3326

Executed on August 7, 2020, at El Segundo, California.

Jonathan Ramirez