

DOUGLAS HAN (SBN 232858)
SHUNT TATAVOS-GHARAJEH (SBN 272164)
PHILLIP SONG (SBN 326572)
JUSTICE LAW CORPORATION
751 N. Fair Oaks Ave., Suite 101
Pasadena, California 91103
Telephone: (818) 230-7502
Facsimile: (818) 230-7259

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN COUNTY**

ROBERTO FLORES, individually, on behalf
of other members of the general public
similarly situated, and on behalf of aggrieved
employees pursuant to the Private Attorneys
General Act ("PAGA");

Plaintiff,

v.

RIVERMAID TRADING COMPANY, a
California corporation; and DOES 1 through
10, inclusive;

Defendants.

Case No.: STK-CV-UOE-2020-0008623

Assigned for All Purposes to:
Honorable Jayne Lee
Department 10C

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (4) Violation of California Labor Code §§ 1194, 1197.1, and 1197 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201, 202, and 203 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
- (7) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses);
- (8) Violation of California Labor Code §§ 551 and 552 (Failure to Provide One Day's Rest in Seven);

- (9) Violation of California Code of Regulations Title 8 § 3395 (Cal/OSHA Heat Illness Prevention Standard);
(10) Violation of Labor Code §§ 2698, *et seq.* (California Labor Code Private Attorneys General Act of 2004); and
(11) Violation of California Business & Professions Code §§ 17200, *et seq.*

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff ROBERTO FLORES (“Plaintiff”), individually, on behalf of other members of the general public similarly situated, and on behalf of aggrieved employees pursuant to the Private Attorneys General Act (“PAGA”), and alleges as follows:

JURISDICTION AND VENUE

1. This class action is brought pursuant to the California Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

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

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

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4. Venue is proper in this Court because, upon information and belief, Defendants maintain offices, have agents, and/or transact business in the State of California, including the County of San Joaquin. the majority of the acts and omissions alleged herein relating to Plaintiff took place in the State of California. Defendants employed Plaintiff within the State of California, County of San Joaquin.

PARTIES

5. Plaintiff ROBERTO FLORES is an individual residing in the State of California, County of San Joaquin.

6. Defendant RIVERMAID TRADING COMPANY, at all times herein mentioned, was and is, upon information and belief, a California corporation, and at all times herein mentioned, was and is, an employer whose employees are engaged throughout the State of California, including the County of San Joaquin.

7. At all times herein mentioned, Defendants RIVERMAID TRADING COMPANY and DOES 1 through 10, and each of them, were agents, partners, joint venturers, joint employers, representatives, servants, employees, successors-in-interest, co-conspirators and assigns, each of the other, and at all times relevant hereto were acting within the course and scope of their authority as such agents, partners, joint venturers, representatives, servants, employees, successors, co-conspirators and assigns, and that all acts or omissions alleged herein were duly committed with ratification, knowledge, permission, encouragement, authorization and consent of each Defendant designated herein.

8. Plaintiff does not know the true names or capacities, whether corporate, associate, individual or otherwise, of Defendants sued herein as DOES 1 through 10, inclusive, and for that reason, said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this Complaint when the true names and capacities are known. Plaintiff is informed and believes, and based on that information and belief alleges, that each of Defendants designated as a DOE is legally responsible in some way for the matters alleged in this Complaint, and proximately and unlawfully caused the injuries and damages to Plaintiff and the other class members as alleged in this Complaint.

9. Defendants RIVERMAID TRADING COMPANY and DOES 1 through 10 will hereinafter collectively be referred to as “Defendants.”

10. Plaintiff further alleges that Defendants directly or indirectly controlled or affected the working conditions, wages, working hours, and conditions of employment of Plaintiff and the other class members so as to make each of said Defendants employers and employers liable under the statutory provisions set forth herein.

CLASS ACTION ALLEGATIONS

11. Plaintiff brings this action on his own behalf and on behalf of all other members of the general public similarly situated, and, thus, seeks class certification under Code of Civil Procedure section 382.

12. The proposed class is defined as follows:

All current and former non-exempt employees who worked for Defendant within the State of California at any time during the period from July 17, 2016, to preliminary approval of the Settlement or November 8, 2021, whichever date is earlier.

13. Plaintiff reserves the right to establish subclasses as appropriate.

14. The class is ascertainable and there is a well-defined community of interest in the litigation:

a. Numerosity: The class members are so numerous that joinder of all class members is impracticable. The membership of the entire class is unknown to Plaintiff at this time; however, the class is estimated to be greater than three thousand (3,000) individuals and the identity of such membership is readily ascertainable by inspection of Defendants’ employment records.

b. Typicality: Plaintiff’s claims are typical of all other class members’ claims as demonstrated herein. Plaintiff will fairly and adequately protect the interests of the other class members with whom he has a well-defined community of interest.

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1 c. Adequacy: Plaintiff will fairly and adequately protect the interests of each
2 class member, with whom he has a well-defined community of interest
3 and typicality of claims, as demonstrated herein. Plaintiff has no interest
4 that is antagonistic to the other class members. Plaintiff's attorneys, the
5 proposed class counsel, are versed in the rules governing class action
6 discovery, certification, and settlement. Plaintiff has incurred, and during
7 the pendency of this action will continue to incur, costs and attorneys'
8 fees, that have been, are, and will be necessarily expended for the
9 prosecution of this action for the substantial benefit of each class member.

10 d. Superiority: A class action is superior to other available methods for the
11 fair and efficient adjudication of this litigation because individual joinder
12 of all class members is impractical.

13 e. Public Policy Considerations: Certification of this lawsuit as a class action
14 will advance public policy objectives. Employers of this great state
15 violate employment and labor laws every day. Current employees are
16 often afraid to assert their rights out of fear of direct or indirect retaliation.
17 However, class actions provide the class members who are not named in
18 the complaint anonymity that allows for the vindication of their rights.

19 15. There are common questions of law and fact as to the class members that
20 predominate over questions affecting only individual members. The following common
21 questions of law or fact, among others, exist as to the members of the class:

22 a. Whether Defendants' failure to pay wages, without abatement or
23 reduction, in accordance with the California Labor Code, was willful;

24 b. Whether Defendants failed to pay their non-exempt employees within the
25 State of California for all hours worked, missed meal periods and rest
26 breaks in violation of California law;

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- 1 c. Whether Defendants required class members to work over eight (8) hours
2 per day and/or over forty (40) hours per week and failed to pay the legally
3 required overtime compensation to class members;
- 4 d. Whether Defendants properly calculated the regular rate for class
5 members who worked overtime and earned bonuses and/or incentive pay;
- 6 e. Whether Defendants deprived Plaintiff and other class members of meal
7 and/or rest periods or required Plaintiff and the other class members to
8 work during meal and/or rest periods without compensation;
- 9 f. Whether Defendants failed to pay minimum wages to Plaintiff and other
10 class members for all hours worked;
- 11 g. Whether Defendants failed to pay all wages due to Plaintiff and other class
12 members within the required time upon their discharge or resignation;
- 13 h. Whether Defendants failed to timely pay all wages due to Plaintiff and
14 other class members during their employment;
- 15 i. Whether Defendants complied with wage reporting as required by the
16 California Labor Code, including, inter alia, section 226;
- 17 j. Whether Defendants failed to reimburse Plaintiff and the other class
18 members for necessary business-related expenses and costs;
- 19 k. Whether Defendants failed to provide Plaintiff and the other class
20 members with one day's rest in seven;
- 21 l. Whether Defendants violated the Cal/OSHA Heat Illness Prevention
22 Standard;
- 23 m. Whether Defendants' conduct was willful or reckless;
- 24 n. Whether Defendants engaged in unfair business practices in violation of
25 California Business & Professions Code sections 17200, *et seq.*;
- 26 o. The appropriate amount of damages, restitution, and/or monetary
27 penalties resulting from Defendants' violation of California law; and
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p. Whether Plaintiff and other class members are entitled to compensatory damages pursuant to the California Labor Code.

GENERAL ALLEGATIONS

16. During the relevant time period set forth herein, Defendants employed Plaintiff and other persons as hourly-paid or non-exempt employees within the State of California.

17. Defendants, jointly and severally, employed Plaintiff as an hourly-paid, non-exempt employee from approximately July 2018 to May 2020 in the State of California, County of San Joaquin.

18. Defendants, jointly and severally, hired Plaintiff and other class members and classified them as hourly-paid, non-exempt employees, and failed to compensate them for all hours worked, and/or missed rest periods.

19. Defendants had the authority to hire and terminate Plaintiff and other class members; to set work rules and conditions governing Plaintiff and the other class members' employment; and to supervise their daily employment activities.

20. Defendants hired Plaintiff and other class members and classified them as non-exempt employees, and failed to compensate them for all hours worked, missed meal periods and/or rest breaks.

21. Defendants exercised sufficient authority over the terms and conditions of Plaintiff and other class members' employment for them to be joint employers of Plaintiff and other class members.

22. Defendants directly hired and paid wages and benefits to Plaintiff and other class members.

23. Defendants continue to employ hourly-paid or non-exempt employees within the State of California.

24. Plaintiff and other class members worked over eight (8) hours in a day, and/or forty (40) hours in a week during their employment with Defendants.

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1 25. Plaintiff is informed and believes, and based thereon alleges, that
2 Defendants engaged in a pattern and practice of wage abuse against their hourly-paid or non-
3 exempt employees within the State of California. This scheme involved, inter alia, failing to pay
4 them for all hours worked, missed meal periods, and missed rest breaks in violation of California
5 law.

6 26. Plaintiff is informed and believes, and based thereon alleges, that
7 Defendants knew or should have known that Plaintiff and other class members were entitled to
8 receive certain wages for overtime compensation and that Plaintiff and other class members were
9 not receiving wages for overtime compensation.

10 27. Plaintiff is informed and believes, and based thereon alleges, that
11 Defendants failed to provide Plaintiff and other class members the required rest and meal periods
12 during the relevant time period as required under the Industrial Welfare Commission Wage
13 Orders and thus they are entitled to any and all applicable penalties.

14 28. Plaintiff is informed and believes, and based thereon alleges, that
15 Defendants knew or should have known that Plaintiff and other class members were entitled to
16 receive all timely and complete meal periods or payment of one additional hour of pay at
17 Plaintiff's and the other class members' regular rate of pay when a meal period was missed, late
18 or interrupted, and that Plaintiff and other class members did not receive all timely and proper
19 meal periods or payment of one additional hour of pay at their regular rate of pay when a meal
20 period was missed.

21 29. Plaintiff is informed and believes, and based thereon alleges, that
22 Defendants knew or should have known that Plaintiff and other class members were entitled to
23 receive all timely rest periods without interruption or payment of one additional hour of pay at
24 Plaintiff and the other class members' regular rate of pay when a rest period was missed, late or
25 interrupted, and they did not receive all rest periods or payment of one additional hour of pay at
26 Plaintiff's and the other class members' regular rate of pay when a rest period was missed.

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1 30. Plaintiff is informed and believes, and based thereon alleges, that
2 Defendants knew or should have known that Plaintiff and other class members were entitled to
3 receive at least minimum wages for compensation and that they were not receiving at least
4 minimum wages for all hours worked.

5 31. Plaintiff is informed and believes, and based thereon alleges, that
6 Defendants knew or should have known that Plaintiff and other class members were entitled to
7 receive the wages owed to them upon discharge or resignation, including overtime and minimum
8 wages and meal and rest period premiums, and that Plaintiff and other class members did not, in
9 fact, receive such wages owed to them at the time of their discharge or resignation.

10 32. Plaintiff is informed and believes, and based thereon alleges, that
11 Defendants knew or should have known that Plaintiff and other class members were entitled to
12 receive complete and accurate wage statements in accordance with California law, but, in fact,
13 they did not receive complete and accurate wage statements from Defendants. The deficiencies
14 included, inter alia, the failure to include the total number of hours worked by Plaintiff and other
15 class members.

16 33. Plaintiff is informed and believes, and based thereon alleges, that
17 Defendants knew or should have known that Plaintiff and the other class members were entitled
18 to reimbursement for necessary business-related expenses.

19 34. Plaintiff is informed and believes, and based thereon alleges, that
20 Defendants knew or should have known that Plaintiff and the other class members were entitled
21 to one day's rest in seven, but Defendants required Plaintiff and the other class members to work
22 on seven consecutive days in the workweek without a waiver.

23 35. Plaintiff is informed and believes, and based thereon alleges, that
24 Defendants, as California employers, knew or should have known that they were required to
25 follow the steps set forth by the Cal/OSHA Heat Illness Prevention Standard and that Defendants
26 violated the heat illness prevention requirements during the relevant time period.

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1 36. Plaintiff is informed and believes, and based thereon alleges, that
2 Defendants knew or should have known that Defendants had to keep complete and accurate
3 payroll records for Plaintiff and other class members in accordance with California law, but, in
4 fact, did not keep complete and accurate payroll records.

5 37. Plaintiff is informed and believes, and based thereon alleges, that
6 Defendants knew or should have known that they had a duty to compensate Plaintiff and other
7 class members pursuant to California law, and that Defendants had the financial ability to pay
8 such compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
9 represented to Plaintiff and other class members that they were properly denied wages, all in
10 order to increase Defendants' profits.

11 38. As a pattern and practice, during the relevant time period set forth herein,
12 Defendants failed to pay overtime wages to Plaintiff and other class members for all hours
13 worked. Plaintiff and other class members were required to work more than eight (8) hours per
14 day and/or forty (40) hours per week without overtime compensation.

15 39. As a pattern and practice, during the relevant time period set forth herein,
16 Defendants failed to provide the requisite uninterrupted and timely meal and rest periods to
17 Plaintiff and other class members.

18 40. As a pattern and practice, during the relevant time period set forth herein,
19 Defendants failed to pay Plaintiff and other class members at least minimum wages for all hours
20 worked.

21 41. As a pattern and practice, during the relevant time period set forth herein,
22 Defendants failed to pay Plaintiff and other class members the wages owed to them upon
23 discharge or resignation.

24 42. As a pattern and practice, during the relevant time period set forth herein,
25 Defendants failed to provide complete or accurate wage statements to Plaintiff and other class
26 members.

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43. As a pattern and practice, during the relevant time period set forth herein, Defendants failed to keep complete or accurate payroll records for Plaintiff and other class members.

44. As a pattern and practice, during the relevant time period set forth herein, Defendants failed to reimburse Plaintiff and the other class members for necessary business-related expenses and costs.

45. As a pattern and practice, during the relevant time period set forth herein, Defendants failed to provide Plaintiff and the other class members with one day's rest in seven.

46. As a pattern and practice, during the relevant time period set forth herein, Defendants failed to follow the heat prevention requirements set forth by the Cal/OSHA Heat Illness Prevention Standard.

47. As a pattern and practice, during the relevant time period set forth herein, Defendants failed to properly compensate Plaintiff and other class members pursuant to California law in order to increase Defendants' profits.

48. California Labor Code section 218 states that nothing in Article 1 of the Labor Code shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty due to him [or her] under this article."

FIRST CAUSE OF ACTION

(Violation of California Labor Code §§ 510 and 1198)

(Against RIVERMAID TRADING COMPANY and DOES 1 through 10)

49. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 48, and each and every part thereof with the same force and effect as though fully set forth herein.

50. California Labor Code section 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

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1 51. Specifically, the applicable IWC Wage Order provides that Defendants
2 are and were required to pay Plaintiff and other class members employed by Defendants, who
3 work(ed) more than eight (8) hours in a day or more than forty (40) hours in a workweek, at the
4 rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day or more than
5 forty (40) hours in a workweek.

6 52. The applicable IWC Wage Order further provides that Defendants are and
7 were required to pay Plaintiff and other class members overtime compensation at a rate of two
8 times their regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

9 53. California Labor Code section 510 codifies the right to overtime
10 compensation at one-and-one-half times the regular hourly rate for hours worked in excess of
11 eight (8) hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on
12 the seventh day of work, and overtime compensation at twice the regular hourly rate for hours
13 worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the
14 seventh day of work.

15 54. During the relevant time period set forth herein, Plaintiff and other class
16 members worked in excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a
17 week.

18 55. As a pattern and practice, during the relevant time period set forth herein,
19 Defendants intentionally and willfully failed to pay and/or properly calculate overtime wages
20 owed to Plaintiff and other class members.

21 56. Defendants' pattern and practice of failing to pay Plaintiff and other class
22 members the unpaid balance of overtime compensation, as required by California laws, violates
23 the provisions of California Labor Code sections 510 and 1198, and is therefore unlawful.

24 57. Pursuant to California Labor Code section 1194, Plaintiff and other class
25 members are entitled to recover unpaid overtime compensation, as well as interest, costs, and
26 attorneys' fees.

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63. As a pattern and practice, during the relevant time period set forth herein, Plaintiff and other class members who were scheduled to work for a period of time no longer than six (6) hours, and who did not waive their legally mandated meal periods by mutual consent, were required to work for periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or without a rest period.

64. As a pattern and practice, during the relevant time period set forth herein, Plaintiff and other class members who were scheduled to work for a period of time no longer than twelve (12) hours, and who did not waive their legally mandated meal periods by mutual consent, were required to work for periods longer than ten (10) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or without a rest period.

65. As a pattern and practice, during the relevant time period set forth herein, Plaintiff and other class members who were scheduled to work for a period of time in excess of six (6) hours were required to work for periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or without a rest period.

66. As a pattern and practice, during the relevant time period set forth herein, Plaintiff and other class members who were scheduled to work for a period of time in excess of twelve (12) hours were required to work for periods longer than ten (10) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or without a rest period.

67. As a pattern and practice, during the relevant time period set forth herein, Defendants intentionally and willfully required Plaintiff and other class members to work during meal periods and failed to compensate Plaintiff and the other class members the full meal period premium for work performed during meal periods.

68. As a pattern and practice, during the relevant time period set forth herein, Defendants failed to pay Plaintiff and other class members the full meal period premium due pursuant to California Labor Code section 226.7.

69. Defendants' conduct violates applicable IWC Wage Order and California Labor Code sections 226.7 and 512(a).

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70. Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(b), Plaintiff and other class members are entitled to recover from Defendants one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.

THIRD CAUSE OF ACTION

(Violation of California Labor Code § 226.7)

(Against RIVERMAID TRADING COMPANY and DOES 1 through 10)

71. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 70, and each and every part thereof with the same force and effect as though fully set forth herein.

72. During the relevant time period set forth herein, the applicable IWC Wage Order and California Labor Code section 226.7 were applicable to Plaintiff's and the other class members' employment by Defendants.

73. During the relevant time period set forth herein, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC.

74. During the relevant time period set forth herein, the applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

75. As a pattern and practice, during the relevant time period set forth herein, Defendants required Plaintiff and other class members to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period worked.

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1 76. As a pattern and practice, during the relevant time period set forth herein,
2 Defendants willfully required Plaintiff and the other class members to work during rest periods
3 and failed to pay Plaintiff and the other class members the full rest period premium for work
4 performed during rest periods.

5 77. As a pattern and practice, during the relevant time period set forth herein,
6 Defendants failed to pay Plaintiff and the other class members the full rest period premium due
7 pursuant to California Labor Code section 226.7.

8 78. Defendants' conduct violates applicable IWC Wage Orders and
9 California Labor Code section 226.7.

10 79. Pursuant to the applicable IWC Wage Orders and California Labor Code
11 section 226.7(b), Plaintiff and the other class members are entitled to recover from Defendants
12 one additional hour of pay at the employees' regular hourly rate of compensation for each
13 workday that the rest period was not provided.

14 **FOURTH CAUSE OF ACTION**

15 **(Violation of California Labor Code §§ 1194, 1197.1, and 1197)**

16 **(Against RIVERMAID TRADING COMPANY and DOES 1 through 10)**

17 80. Plaintiff incorporates by reference the allegations contained in paragraphs
18 1 through 79 and each and every part thereof with the same force and effect as though fully set
19 forth herein.

20 81. During the relevant time period set forth herein, California Labor Code
21 sections 1194 and 1197 provide that the minimum wage to be paid to employees, and the
22 payment of a lesser wage than the minimum so fixed, is unlawful.

23 82. As a pattern and practice, during the relevant time period set forth herein,
24 Defendants failed to pay minimum wages to Plaintiff and other class members as required,
25 pursuant to California Labor Code sections 1194, 1197.1, and 1197.

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1 83. Defendants' failure to pay Plaintiff and other class members the minimum
2 wage as required violates California Labor Code sections 1194, 1197.1, and 1197. Pursuant to
3 those sections, Plaintiff and other class members are entitled to recover the unpaid balance of
4 their minimum wage compensation as well as interest, costs, and attorney's fees, and liquidated
5 damages in an amount equal to the wages unlawfully unpaid and interest thereon.

6 84. Pursuant to California Labor Code section 1197.1, Plaintiff and the other
7 class members are entitled to recover a penalty of \$100.00 for the initial failure to timely pay
8 each employee minimum wages, and \$250.00 for each subsequent failure to pay each employee
9 minimum wages.

10 85. Pursuant to California Labor Code section 1194.2, Plaintiff and other
11 class members are entitled to recover liquidated damages in an amount equal to the wages
12 unlawfully unpaid and interest thereon.

13 **FIFTH CAUSE OF ACTION**

14 **(Violation of California Labor Code §§ 201, 202, and 203)**

15 **(Against RIVERMAID TRADING COMPANY and DOES 1 through 10)**

16 86. Plaintiff incorporates by reference the allegations contained in paragraphs
17 1 through 85, and each and every part thereof with the same force and effect as though fully set
18 forth herein.

19 87. During the relevant time period set forth herein, California Labor Code
20 sections 201 and 202 provide that if an employer discharges an employee, the wages earned and
21 unpaid at the time of discharge are due and payable immediately, and if an employee quits his
22 or her employment, his or her wages shall become due and payable not later than seventy-two
23 (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her
24 intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

25 88. As a pattern and practice, during the relevant time period set forth herein,
26 Defendants intentionally and willfully failed to pay Plaintiff and other class members who are
27 no longer employed by Defendants their wages, earned and unpaid, within seventy-two (72)
28 hours of their leaving Defendants' employ.

1 89. Defendants' pattern and practice of failing to pay Plaintiff and other class
2 members who are no longer employed by Defendants their wages, earned and unpaid, within
3 seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor
4 Code sections 201 and 202.

5 90. California Labor Code section 203 provides that if an employer willfully
6 fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the
7 employee shall continue as a penalty from the due date thereof at the same rate until paid or until
8 an action is commenced; but the wages shall not continue for more than thirty (30) days.

9 91. Plaintiff and other class members are entitled to recover from Defendants
10 the statutory penalty wages for each day they were not paid, up to a thirty (30) day maximum
11 pursuant to California Labor Code section 203.

12 **SIXTH CAUSE OF ACTION**

13 **(Violation of California Labor Code § 226(a))**

14 **(Against RIVERMAID TRADING COMPANY and DOES 1 through 10)**

15 92. Plaintiff incorporates by reference the allegations contained in paragraphs
16 1 through 91, and each and every part thereof with the same force and effect as though fully set
17 forth herein.

18 93. During the relevant time period set forth herein, California Labor Code
19 section 226(a) provides that every employer shall furnish each of his or her employees an
20 accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked
21 by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the
22 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on
23 written orders of the employee may be aggregated and shown as one item, (5) net wages earned,
24 (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee
25 and his or her social security number, (8) the name and address of the legal entity that is the
26 employer, and (9) all applicable hourly rates in effect during the pay period and the
27 corresponding number of hours worked at each hourly rate by the employee. The deductions
28 made from payments of wages shall be recorded in ink or other indelible form, properly dated,

1 showing the month, day, and year, and a copy of the statement or a record of the deductions shall
2 be kept on file by the employer for at least three years at the place of employment or at a central
3 location within the State of California.

4 94. As a pattern and practice, Defendants have intentionally and willfully
5 failed to provide Plaintiff and other class members with complete and accurate wage statements.
6 The deficiencies include but are not limited to: the failure to include the total number of hours
7 worked by Plaintiff and other class members.

8 95. As a result of Defendants' violation of California Labor Code section
9 226(a), Plaintiff and other class members have suffered injury and damage to their statutorily
10 protected rights.

11 96. More specifically, Plaintiff and other class members have been injured by
12 Defendants' intentional and willful violation of California Labor Code section 226(a) because
13 they were denied both their legal right to receive, and their protected interest in receiving,
14 accurate and itemized wage statements pursuant to California Labor Code section 226(a).

15 97. Plaintiff and other class members are entitled to recover from Defendants
16 the greater of their actual damages caused by Defendants' failure to comply with California
17 Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per
18 employee.

19 98. Plaintiff and other class members are also entitled to injunctive relief to
20 ensure compliance with this section, pursuant to California Labor Code section 226(g).

21 **SEVENTH CAUSE OF ACTION**

22 **(Violation of California Labor Code §§ 2800 and 2802)**

23 **(Against RIVERMAID TRADING COMPANY and DOES 1 through 10)**

24 99. Plaintiff incorporates by reference the allegations contained in paragraphs
25 1 through 98, and each and every part thereof with the same force and effect as though fully set
26 forth herein.

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1 100. Pursuant to California Labor Code sections 2800 and 2802, an employer
2 must reimburse its employee for all necessary expenditures incurred by the employee in direct
3 consequence of the discharge of his or her job duties or in direct consequence of his or her
4 obedience to the directions of the employer.

5 101. Defendants have intentionally and willfully failed to reimburse Plaintiff
6 and other class members for all necessary business-related expenses and costs. Plaintiff and
7 other class members are entitled to recover from Defendants their business-related expenses and
8 costs incurred during the course and scope of their employment, plus interest accrued from the
9 date on which the employee incurred the necessary expenditures at the same rate as judgments
10 in civil actions in the State of California.

11 **EIGHTH CAUSE OF ACTION**

12 **(Violation of California Labor Code §§ 551 and 552)**

13 **(Against RIVERMAID TRADING COMPANY and DOES 1 through 10)**

14 102. Plaintiff incorporates by reference the allegations contained in paragraphs
15 1 through 101, and each and every part thereof with the same force and effect as though fully set
16 forth herein.

17 103. During the relevant time period set forth herein, Labor Code sections 551
18 and 552 provide that an employer must provide its employees with one day's rest in seven.

19 104. As a pattern and practice, Defendants have intentionally and willfully
20 failed to provide Plaintiff and other class members with one day's rest in seven and, instead,
21 required employees to work on seven consecutive days in the workweek without a waiver.

22 105. Pursuant to California Labor Code section 558(a)(2), Plaintiff and other
23 class members are entitled to recover a penalty of \$100.00 per pay period.

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1 **NINTH CAUSE OF ACTION**

2 **(Violation of California Code of Regulations Title 8 § 3395)**

3 **(Against RIVERMAID TRADING COMPANY and DOES 1 through 10)**

4 106. Plaintiff incorporates by reference the allegations contained in paragraphs
5 1 through 105, and each and every part thereof with the same force and effect as though fully set
6 forth herein.

7 107. During the relevant time period set forth herein, California Code of
8 Regulations Title 8 section 3395 was applicable to Plaintiff's and the other class members'
9 employment by Defendants.

10 108. During the relevant time period set forth herein, the Cal/OSHA Heat
11 Illness Prevention Standard, found in California Code of Regulations Title 8 section 3395, and
12 enforceable by the Division of Occupational Safety and Health (DOSH) pursuant to Labor Code
13 sections 6308 and 6317, *inter alia*, provides that an employer must develop a Heat Illness
14 Prevention Plan, including, at a minimum, (1) procedures for the provision of water and access
15 to shade; (2) high heat procedures; (3) emergency response procedures; and (4) acclimatization
16 methods and procedures.

17 109. As a pattern and practice, Defendants have intentionally and willfully
18 violated the heat illness prevention requirements set forth by the Cal/OSHA Heat Illness
19 Prevention Standard in California Code of Regulations Title 8 section 3395.

20 110. Pursuant to California Labor Code sections 6317 and 6423, Plaintiff and
21 other class members may be entitled to civil penalties for Defendants' violations of the heat
22 illness prevention requirements set forth by the Cal/OSHA Heat Illness Prevention Standard in
23 California Code of Regulations Title 8 section 3395.

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1 116. As a pattern and practice, Defendants failed to compensate Plaintiff and
2 other aggrieved current and former employees for all hours worked, resulting in a failure to pay
3 all minimum wages and overtime wages, where applicable.

4 117. As a pattern and practice, Defendants failed to compensate Plaintiff and
5 other current and former aggrieved employees for off-the-clock work, including work during
6 pre-shift, post-shift, and lunch.

7 118. As a pattern and practice, Defendants failed to include non-discretionary
8 bonuses and incentives in aggrieved employees' regular rate for purposes of overtime
9 compensation.

10 **Failure to Provide Meal Periods and Rest Breaks**

11 119. In accordance with the mandates of Labor Code sections 226.7 and 512,
12 Defendants were required to authorize and permit their non-exempt employees to take a 10-
13 minute rest break for every four (4) hours worked or major fraction thereof, and were further
14 required to provide their non-exempt employees with a 30-minute meal period for every five (5)
15 hours worked.

16 120. As a pattern and practice, Defendants failed to provide Plaintiff and other
17 aggrieved current and former employees with legally-mandated meal periods and rest breaks and
18 failed to pay proper compensation for this failure.

19 **Failure to Timely Pay Wages During Employment**

20 121. At all times relevant herein, Defendants were required to pay their
21 employees within a specified time period pursuant to the mandate of Labor Code section 204.

22 122. As a pattern and practice, Defendants failed to pay Plaintiff and other
23 aggrieved current and former employees all wages due and owing them, including for
24 uncompensated off-the-clock work and premium wages for failing to provide meal and rest
25 breaks, within the required time period.

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1 **Failure to Timely Pay Wages Upon Termination**

2 123. At all times relevant herein, Defendants were required to pay their
3 employees all wages owed in a timely fashion at the end of employment pursuant to California
4 Labor Code sections 201 to 204.

5 124. As a result of Defendants' Labor Code violations alleged above,
6 Defendants failed to pay Plaintiff and the other aggrieved former employees their final wages,
7 including for uncompensated off-the-clock work and premium wages for failing to provide meal
8 and rest breaks, pursuant to Labor Code sections 201 to 204 and accordingly owe waiting time
9 penalties pursuant to Labor Code section 203.

10 **Failure to Provide Complete and Accurate Wage Statements**

11 125. At all times relevant herein, Defendants were required to keep *accurate*
12 records regarding their California employees pursuant to the mandate of Labor Code sections
13 226 and 1174.

14 126. As a result of Defendants' various Labor Code violations, Defendants
15 failed to keep accurate records regarding Plaintiff and other aggrieved current and former
16 employees. For example, Defendants failed in their affirmative obligation to keep accurate
17 records regarding Plaintiff and other aggrieved current and former employees' gross wages
18 earned, total hours worked, all deductions, net wages earned, and all applicable hourly rates and
19 the number of hours worked at each hourly rate.

20 **Failure to Reimburse Business Expenses**

21 127. At all times relevant herein, Defendants were required to reimburse their
22 employees for any and all necessary expenditures or losses incurred by the employees in direct
23 consequences of the discharge or his or her duties pursuant to the mandate of Labor Code
24 sections 2800 and 2802.

25 128. As a pattern and practice, Defendants failed to pay Plaintiff and other
26 aggrieved current and former employees all business expenses incurred and owing them, such
27 as personal protective equipment, within the required time period.

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1 **Failure to Provide One Day's Rest in Seven**

2 129. At all times relevant herein, Defendants were required to provide their
3 employees with one day's rest in seven pursuant to the mandate of Labor Code sections 551 and
4 552.

5 130. As a pattern and practice, Defendants failed to provide Plaintiff and other
6 aggrieved current and former employees with one day's rest in seven and, instead, required
7 employees to work on seven consecutive days in the workweek without a waiver.

8 **Penalties**

9 131. Pursuant to California Labor Code section 2699, Plaintiff, individually,
10 and on behalf of other current and former aggrieved employees, requests and is entitled to
11 recover from Defendants, and each of them, civil penalties, interest, attorneys' fees and costs
12 pursuant, including but not limited to:

13 132. Penalties under California Labor Code section 2699 in the amount of a
14 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and
15 two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent
16 violation;

17 133. Penalties under California Code of Regulations Title 8 section 11040 in
18 the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial
19 violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each
20 subsequent violation;

21 134. Penalties under California Labor Code section 210 in addition to, and
22 entirely independent and apart from, any other penalty provided in the California Labor Code in
23 the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial
24 violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each
25 subsequent violation;

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1 135. Penalties under Labor Code section 1197.1 in the amount of a hundred
2 dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two
3 hundred fifty dollars (\$250) for each aggrieved employee per pay period for each subsequent
4 violation;

5 136. Any and all additional penalties as provided by the Labor Code and/or
6 other statutes; and

7 137. Attorneys' fees and costs pursuant to Labor Code sections 210, 1194, and
8 2699, and any other applicable statute.

9 **ELEVENTH CAUSE OF ACTION**

10 **(Violation of California Business & Professions Code §§ 17200, *et seq.*)**

11 **(Against RIVERMAID TRADING COMPANY and DOES 1 through 10)**

12 138. Plaintiff incorporates by reference the allegations contained in paragraphs
13 1 through 137, and each and every part thereof with the same force and effect as though fully set
14 forth herein.

15 139. Defendants' conduct, as alleged herein, has been, and continues to be
16 unfair, unlawful and harmful to Plaintiff, other class members, to the general public, and
17 Defendants' competitors. Accordingly, Plaintiff seeks to enforce important rights affecting the
18 public interest within the meaning of Code of Civil Procedure section 1021.5.

19 140. Defendants' activities as alleged herein are violations of California law,
20 and constitute unlawful business acts and practices in violation of California Business &
21 Professions Code sections 17200, *et seq.*

22 141. A violation of California Business & Professions Code sections 17200, *et*
23 *seq.* may be predicated on the violation of any state or federal law. In this instant case,
24 Defendants' pattern and practice of requiring Plaintiff and other class members to work overtime
25 hours without paying them proper compensation violate California Labor Code sections 510 and
26 1198. Additionally, Defendants' pattern and practice of requiring Plaintiff and other class
27 members, to work through their meal and rest periods without paying them proper compensation
28 violate California Labor Code sections 226.7 and 512(a). Moreover, Defendants' pattern and

1 practice of failing to timely pay wages to Plaintiff and other class members violate California
2 Labor Code sections 201 and 202. Defendants also violated California Labor Code sections
3 226(a), 1194, 1197, 2800 and 2802.

4 142. As a result of the herein described violations of California law,
5 Defendants unlawfully gained an unfair advantage over other businesses.

6 143. Plaintiff and other class members have been personally injured by
7 Defendants' unlawful business acts and practices as alleged herein, including but not necessarily
8 limited to the loss of money and/or property.

9 144. Pursuant to California Business & Professions Code sections 17200, *et*
10 *seq.*, Plaintiff and other class members are entitled to restitution of the wages withheld and
11 retained by Defendants during a period that commences four years prior to the filing of this
12 Complaint; an award of attorneys' fees pursuant to California Code of Civil procedure section
13 1021.5 and other applicable laws; and an award of costs.

14 **DEMAND FOR JURY TRIAL**

15 Plaintiff, individually, and on behalf of other members of the general public similarly
16 situated, requests a trial by jury.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff, individually, and on behalf of all other members of the
19 general public similarly situated, and on behalf of aggrieved employees pursuant to PAGA, prays
20 for relief and judgment against Defendants, jointly and severally, as follows:

21 **Class Certification**

- 22 1. That this action be certified as a class action;
- 23 2. That Plaintiff be appointed as representative of the Class;
- 24 3. That counsel for Plaintiff be appointed as class counsel; and
- 25 4. That Defendants provide to class counsel immediately the names and most
26 current contact information (address, e-mail, and telephone numbers) of all class members.

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As to the First Cause of Action

5. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;

6. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;

7. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194; and

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

As to the Second Cause of Action

9. That the Court make an award to Plaintiff and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a meal period was not provided;

10. For all actual, consequential, and incidental losses and damages, according to proof;

11. For premium wages pursuant to California Labor Code section 226.7(b);

12. For pre-judgment interest on any unpaid wages from the date such amounts were due;

13. For reasonable attorneys' fees and costs of suit incurred herein; and

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

As to the Third Cause of Action

15. That the Court declare, adjudge, and decree that Defendants violated California Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest periods to Plaintiff and the other class members;

16. That the Court make an award to Plaintiff and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a rest period was not provided;

17. For all actual, consequential, and incidental losses and damages, according to proof;

- 1 18. For premium wages pursuant to California Labor Code section 226.7(b);
2 19. For pre-judgment interest on any unpaid wages from the date such amounts were
3 due; and
4 20. For such other and further relief as the Court may deem just and proper.

5 **As to the Fourth Cause of Action**

6 21. That the Court declare, adjudge, and decree that Defendants violated California
7 Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to
8 Plaintiff and the other class members;

9 22. For general unpaid wages and such general and special damages as may be
10 appropriate;

11 23. For pre-judgment interest on any unpaid compensation from the date such
12 amounts were due;

13 24. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
14 California Labor Code section 1194(a);

15 25. For liquidated damages pursuant to California Labor Code section 1194.2; and

16 26. For such other and further relief as the Court may deem just and proper.

17 **As to the Fifth Cause of Action**

18 27. That the Court declare, adjudge, and decree that Defendants violated California
19 Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the
20 time of termination of the employment of the other class members no longer employed by
21 Defendants;

22 28. For all actual, consequential, and incidental losses and damages, according to
23 proof;

24 29. For statutory wage penalties pursuant to California Labor Code section 203 for
25 the other class members who have left Defendants' employ;

26 30. For pre-judgment interest on any unpaid compensation from the date such
27 amounts were due; and

28 31. For such other and further relief as the Court may deem just and proper.

1 **As to the Sixth Cause of Action**

2 32. That the Court declare, adjudge, and decree that Defendants violated the record
3 keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders
4 as to Plaintiff and other class members, and willfully failed to provide accurate itemized wage
5 statements thereto;

6 33. For actual, consequential, and incidental losses and damages, according to proof;

7 34. For injunctive relief to ensure compliance with this section, pursuant to California
8 Labor Code section 226(g); and

9 35. For such other and further relief as the Court may deem just and proper.

10 **As to the Seventh Cause of Action**

11 36. That the Court declare, adjudge, and decree that Defendants violated California
12 Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff and other class
13 members (but not all) for all necessary business-related expenses as required by California Labor
14 Code sections 2800 and 2802;

15 37. For actual, consequential, and incidental losses and damages, according to proof;

16 38. For the imposition of civil penalties and/or statutory penalties;

17 39. For punitive damages and/or exemplary damages according to proof at trial;

18 40. For reasonable attorneys' fees and costs of suit incurred herein; and

19 41. For such other and further relief as the Court may deem just and proper.

20 **As to the Eighth Cause of Action**

21 42. That the Court declare, adjudge, and decree that Defendants violated California
22 Labor Code sections 551 and 552 by willfully failing to provide Plaintiff and other class members
23 with one days' rest in seven and, instead, requiring Plaintiff and other class members to work on
24 seven consecutive days in the workweek without a waiver;

25 43. For actual, consequential, and incidental losses and damages, according to proof;

26 44. For statutory penalties pursuant to California Labor Code section 558(a)(2); and

27 45. For such other and further relief as the Court may deem just and proper.

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1 **As to the Ninth Cause of Action**

2 46. That the Court declare, adjudge, and decree that Defendants violated the
3 requirements of the Cal/OSHA Heat Illness Prevention Standard, found in California Code of
4 Regulations Title 8 section 3395, by failing to properly implement a Heat Illness Prevention
5 Plan;

6 47. For actual, consequential, and incidental losses and damages, according to proof;

7 48. For the imposition of civil penalties;

8 49. For such other and further relief as the Court may deem just and proper.

9 **As to the Tenth Cause of Action**

10 50. Upon the Eighth Cause of Action, for civil penalties pursuant to statute as set
11 forth in Labor Code sections 2698 *et seq.*, for Defendants' violations of Labor Code sections
12 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194,
13 1197, 1197.1, 1198, 2800 and 2802.

14 51. For costs and attorneys' fees pursuant to Labor Code sections 210, 218.5, 1194,
15 and 2699, and any other applicable statute; and

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

17 **As to the Eleventh Cause of Action**

18 53. That the Court declare, adjudge, and decree that Defendants violated California
19 Business and Professions Code sections 17200, *et seq.* by failing to pay at least minimum wages
20 to Plaintiff and other class members all compensation due to them, failing to provide all meal
21 and rest periods to Plaintiff and the other class members, failing to reimburse Plaintiff and other
22 class members for business expenses, and failing to pay Plaintiff's and other class members'
23 wages timely as required by California Labor Code sections 201 and 202.

24 54. For restitution of unpaid wages to Plaintiff and other class members and all pre-
25 judgment interest from the day such amounts were due and payable;

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1 55. For the appointment of a receiver to receive, manage and distribute any and all
2 funds disgorged from Defendants and determined to have been wrongfully acquired by
3 Defendants as a result of violation of California Business and Professions Code sections 17200,
4 *et seq.*;

5 56. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
6 California Code of Civil Procedure section 1021.5;

7 57. For injunctive relief to ensure compliance with this section, pursuant to California
8 Business and Professions Code sections 17200, *et seq.*; and

9 58. For such other and further relief as the Court may deem just and proper.
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11 Dated: November 18, 2021

JUSTICE LAW CORPORATION

12
13 By: 
14 Douglas Han
15 Shunt Tatavos-Gharajeh
16 Phillip Song
17 Attorneys for Plaintiff
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EXHIBIT 1

July 17, 2020

BY U.S. EMAIL/ELECTRONIC SUBMISSION

PAGAfilings@dir.ca.gov
State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

RE: RIVERMAID TRADING COMPANY

Dear Representative:

We have been retained to represent Roberto Flores against Rivermaid Trading Company (including any and all affiliates, managers, members, subsidiaries, and parents, and their shareholders, officers, directors, and employees), any individual, owner, officer and managing agent, DOES 1-10 as an "Employer" or person acting on behalf of an "Employer" pursuant to California Labor Code section 558.1, and DOES 11-20¹ for violations of California wage-and-hour laws (hereinafter collectively referred to as "RIVERMAID").

Mr. Flores is pursuing his California Labor Code section 2698, *et seq.*, the Private Attorneys General Act of 2004 ("PAGA") claim on a representative basis. Therefore, Mr. Flores may seek penalties and wages for violations of the Labor Code on behalf of the State of California and aggrieved employees, which are recoverable under PAGA. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

Rivermaid Trading Company is a California corporation located at 6011 E. Pine Street, Lodi, California 95241.

RIVERMAID employed Mr. Flores as an hourly-paid non-exempt Laborer within one year of the date of this letter (until in or about May of 2020) in the State of California.

The "aggrieved employees" that Mr. Flores may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees (whether hired directly or through staffing agencies or labor contractors) of RIVERMAID within the State of California.

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¹ Mr. Lopez does not know the true names or capacities, whether individual, partner or corporate, of DOES 1 through 20, inclusive, and for that reason, said DOES are designated under such fictitious names. Mr. Lopez will amend this notice when the true names and capacities are known. Mr. Lopez is informed and believes that each DOE was responsible in some way for the matters alleged herein and proximately caused Mr. Lopez and other current and former aggrieved employees to be subject to the illegal employment practices, wrongs and injuries complained of herein.

RIVERMAID directly controlled the wages, hours and working conditions of Mr. Flores and other aggrieved employees' employment, including daily direct supervision of their work, setting work schedules and procedures for meal and rest breaks.

RIVERMAID failed to properly pay its hourly-paid or non-exempt employees for all hours worked, failed to properly provide or compensate minimum and overtime wages and for meal and rest breaks, failed to issue compliant wage statements and failed to reimburse for all necessary business-related costs and expenses, thus resulting in other Labor Code violations as stated below.

Pursuant to *Huff v. Securitas Security Services*, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations alleged in the complaint has standing to pursue penalties on behalf of the state not only for that violation, but for violations affecting other employees as well. Accordingly, Mr. Flores has standing to pursue penalties on behalf of the state for violations affecting all the aggrieved employees at RIVERMAID, regardless of their classification, job title, locations, or whether they were hired directly or through a labor contractor or staffing agency.

RIVERMAID has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code sections 510, 1194, and 1198 require employers to pay at least minimum wage for all hours worked, pay time-and-a-half, or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates. During the relevant time period, Mr. Flores and other aggrieved employees routinely worked in excess of 8 hours in a day and 40 hours in a week. RIVERMAID failed to compensate Mr. Flores and other aggrieved employees for all hours worked and performing off-the-clock work, including pre- and post-shift and during meal breaks. RIVERMAID also failed to include non-discretionary bonuses and incentives aggrieved employees' regular rate for purposes of overtime compensation. Therefore, Mr. Flores and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

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California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each workday that a meal or rest break is not provided. During the relevant time period, RIVERMAID routinely required Mr. Flores and other aggrieved employees to work through, interrupt, cut short, and/or delay their meal and rest breaks to comply with RIVERMAID policies and expectations, and meet production goals. Additionally, RIVERMAID failed to adopt a health illness prevention program providing Mr. Flores and other aggrieved employees working outside in the sun recovery periods during extreme temperatures. Moreover, RIVERMAID failed to authorize and permit Mr. Flores and other aggrieved employees to take the requisite number of meal and rest breaks, including second meal breaks and third rest breaks, when working shifts exceeding 10 hours in length. Despite these facts, RIVERMAID failed to compensate Mr. Flores and other aggrieved employees all the premium wages they were owed.

California Labor Code section 201 requires that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. California Labor Code section 202 requires that if an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. California Labor Code section 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code sections 201 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. During the relevant time period, RIVERMAID failed to pay Mr. Flores and other aggrieved employees all wages, including for uncompensated off-the-clock work and premium wages for failing to provide legally mandated meal and rest breaks as explained above, due to them within any time period specified by California Labor Code sections 201 and 203 and therefore is liable under California Labor Code section 203.

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California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, RIVERMAID failed to pay Mr. Flores and other aggrieved employees all wages due to them, including for uncompensated off-the-clock work and premium wages as explained above, within any time period specified by California Labor Code section 204.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, RIVERMAID did not provide Mr. Flores and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from RIVERMAID were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include (1) gross wages earned by Mr. Flores and other aggrieved employees, (2) total hours worked by Mr. Flores and other aggrieved employees, (3) the number of piece-rate units earned and any applicable piece rate by Mr. Flores and other aggrieved employees (4) all deductions for Mr. Flores and other aggrieved employees, (5) net wages earned by Mr. Flores and other aggrieved employees, (6) the inclusive dates of the period for which Mr. Flores and other aggrieved employees are paid, (7) the name of the aggrieved employee and only the last four digits of his or her social security number or an employee identification number other than a 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 Mr. Flores and other aggrieved employees.

California Labor Code section 558 allows recovery of penalties. (a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee. Mr. Flores and other aggrieved employees have been denied their wages and premium wages and, therefore, are entitled to penalties.

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years. During the relevant time period, RIVERMAID failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid, to Mr. Flores and other aggrieved employees.

California Labor Code sections 1194, 1197 and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, RIVERMAID did not provide Mr. Flores and other aggrieved employees with the minimum wages to which they were entitled despite constructive and actual knowledge of off-the-clock work, including pre- and post-shift and during meal breaks.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During their employment, Mr. Flores and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by RIVERMAID, including for purchasing personal protective equipment they were required to wear while working.

We believe that Mr. Flores and other current and former California-based hourly-paid or non-exempt employees are entitled to penalties and wages as allowed under California Labor Code section 2698, *et seq.* for violations of Labor Code sections 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code section 2699.3 requires that a claimant send a certified letter to the employer in questions and the California Labor & Workforce Development Agency setting forth the claims, and the basis for the claims, thereby giving the California Labor & Workforce Development Agency an opportunity to investigate the claims and/or take any action it deems appropriate.

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LWDA
July 17, 2020
Page 6 of 6

The purpose of this letter is to satisfy the requirement created by California Labor code section 2699 prior to seeking penalties allowed by law for the aforementioned statutory violations. We look forward to determining whether California Labor & Workforce Development Agency intends to take any action in reference to these claims. We kindly request that you respond to this notice according to the time frame contemplated by the California Labor Code.

Mr. Flores will seek these penalties and wages on his own behalf and on behalf of other similarly situated California-based hourly-paid or non-exempt employees of RIVERMAID within one year of the date of this letter, as allowed by law.

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

Very truly yours,

JUSTICE LAW CORPORATION

A handwritten signature in black ink, appearing to read 'D. Han', with a stylized flourish at the end.

Douglas Han, Esq.

CC: (By Certified U.S. Mail Only):

Wareham Seaman Jr.
c/o Rivermaid Trading Company
2377 Gold Meadow Way, Suite 240
Gold River, California 95670
Agent for Service of Process for Rivermaid Trading Company

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1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is aokada@justicelawcorp.com

On November 23, 2021, I served the foregoing document described as

FIRST AMENDED CLASS ACTION COMPLAINT FOR DAMAGES

for the following case: **Flores v. Rivermaid Trading Company**
LWDA/Court Case No.: **LWDA Case No.: CM- 797434-20**
Court Case No.: STK-CV-UOE-2020-0008623
San Joaquin County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 23, 2021, at Pasadena, California.



Anna Okada