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Superior Court of California
County of Fresno
By: C. York, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF FRESNO

EDUARDO GONZALEZ, as an individual
and on behalf of all others similarly
situated,

Plaintiff,

vs.

GUARDIAN INDUSTRIES, LLC, a
Delaware Limited Liability Corporation;
and DOES 1 through 100,

Defendants.

Case No.: 19CECG02134

**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, 1198);**
- (3) MEAL PERIOD VIOLATIONS (LABOR
CODE §§ 226.7, 512, 558);**
- (4) UNFAIR COMPETITION (BUS & PROF
CODE § 17200 *et seq.*);**
- (5) WAITING TIME PENALTIES (LABOR
CODE §§ 201-203); and**
- (6) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL ACT
(LABOR CODE § 2698 *et seq.*)**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Eduardo Gonzalez (hereinafter “Plaintiff”) on behalf of himself and all others
2 similarly situated, hereby brings this First Amended Class Action Complaint (“Complaint”)
3 against Guardian Industries, LLC, a Delaware Limited Liability Company; and DOES 1 to 100,
4 inclusive (collectively “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

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

14 **VENUE**

15 2. Venue is proper in this judicial district pursuant to California Code of Civil
16 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
17 occurred in the County of Fresno. Defendants own, maintain offices, transact business, have an
18 agent or agents within the County of Fresno, and/or otherwise are found within the County of
19 Fresno, and Defendants are within the jurisdiction of this Court for purposes of service of process.

20 **PARTIES**

21 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
22 Plaintiff was and currently is a California resident. During the four years immediately preceding
23 the filing of this action and within the statute of limitations periods applicable to each cause of
24 action pled herein, Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff
25 was, and is, a victim of Defendants’ policies and/or practices complained of herein, lost money
26 and/or property, and has been deprived of the rights guaranteed by Labor Code §§ 201-204, 226.7,
27 510, 512, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2698 *et seq.*, California Business and
28 Professions Code § 17200 *et. seq.*, and Wage Order 1, which sets employment standards for the

1 “Manufacturing Industry,” which includes industries that make, alter, and assemble goods such
2 as glass.

3 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
4 years preceding the filing of this action and continuing to the present, Defendants did (and
5 continue to do) business by operating a commercial glass manufacturing facility. Upon
6 information and belief, Defendants operate their manufacturing plant in California and employed
7 Plaintiff and other, similarly situated non-exempt employees within Fresno County and the state
8 of California and, therefore, were (and are) doing business in Fresno County and the State of
9 California.

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

18 6. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
19 herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

20 7. At all times herein mentioned, each of said Defendants participated in the doing
21 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
22 Defendants, and each of them, were the agents, servants, and employees of each and every one of
23 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
24 were acting within the course and scope of said agency and employment. Defendants, and each
25 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
26 omissions complained of herein.

27 8. At all times mentioned herein, Defendants, and each of them, were members of
28 and engaged in a joint venture, partnership, and common enterprise, and acting within the course

1 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
2 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all
3 members of the Classes.

4 **GENERAL FACTUAL ALLEGATIONS**

5 9. Defendants operate a glass manufacturing business that produces high
6 performance glass for architectural, residential, interior, transportation, and technical glass
7 application. Plaintiff worked for Defendants as a non-exempt employee in the position of
8 “Operator” from approximately August 2016 to September 2017, when Plaintiff went out on
9 medical leave. Plaintiff’s employment with Defendants ended in July 2020. Plaintiff’s job duties
10 consisted of processing and packaging glass.

11 10. Throughout Plaintiff’s employment, Defendants maintained timekeeping
12 policies/practices which resulted in Defendants not compensating Plaintiff for all hours actually
13 worked. Specifically, due to the nature of the work performed, Defendants required Plaintiff and
14 other non-exempt employees to don and doff safety equipment before and after their shifts. Such
15 safety equipment included steel-toe boots, glass cut-resistant sweaters and leggings, gloves, and
16 helmets with face shields to protect employees from glass. Plaintiff estimates that it takes
17 approximately 5 to 10 minutes to completely don and/or doff this safety equipment before and
18 after each shift. Plaintiff and other non-exempt employees were required to don their safety
19 equipment prior to clocking-in, and Defendants instructed their employees to immediately clock-
20 out once they were relieved from their workstations, prior to doffing their safety equipment,
21 resulting in unpaid minimum and overtime wages for all time spent donning and doffing the
22 required safety equipment off-the-clock. Furthermore, upon information and belief, Defendants
23 utilized a timekeeping system that resulted in Defendants not compensating Plaintiff and other
24 non-exempt employees for all recorded hours on the clock, whether by rounding, time-shaving,
25 or otherwise. As a result of these timekeeping policies/practices that failed to compensate
26 employees for all hours worked, Defendants deprived Plaintiff and other non-exempt employees
27 of all required minimum and overtime wages earned.

1 11. Plaintiff was also not provided with all required meal periods to which he was
2 entitled due to Defendants' unlawful meal period policies/practices, which failed to provide
3 Plaintiff and other non-exempt employees with a second timely, uninterrupted, duty-free 30-
4 minute meal period when they worked shifts in excess of 10.0 hours. To the extent that Defendants
5 assert that employees waived these second meal periods, Plaintiff alleges that Defendants never
6 provided him with the opportunity to take a second meal period and that he did not voluntarily
7 waive his second meal periods. In fact, due to the physically exhausting nature of the work
8 performed, Plaintiff and other non-exempt employees often wished to take a second meal period,
9 but Defendants forbid them from taking second meal periods. Upon information and belief,
10 Defendants have reprimanded employees when they inquired about taking a second meal period.
11 Additionally, Defendants required Plaintiff and other non-exempt employees to sign a purported
12 "on-duty meal period" agreement for "emergency" situations, and relied on this agreement to
13 deny employees lawfully owed meal period premiums on occasions when they were denied meal
14 periods. However, because the necessity of an on-duty meal period is determined by the nature
15 of the work employees perform, Defendants cannot apply the agreement solely in emergency
16 situations, making the agreement unlawful and unenforceable. On occasions when Plaintiff and
17 other non-exempt employees were not provided with all lawful meal periods to which they were
18 entitled, Defendants have failed to compensate Plaintiff and other non-exempt employees with an
19 additional hour of premium pay at their respective regular rates of pay for each workday in which
20 a meal period violation occurred, as required by Labor Code section 226.7.

21 12. As a result of Defendants' failure to pay all overtime wages, minimum wages, and
22 meal period premium wages, Defendants failed to pay all final wages owed to Plaintiff and other
23 non-exempt employees upon their respective separations of employment.

24 **CLASS ACTION ALLEGATIONS**

25 13. **Class Definitions:** Plaintiff brings this action on behalf of himself and the
26 following Classes pursuant to § 382 of the Code of Civil Procedure:

- 27 a. The Minimum Wage Class consists of all of Defendants' current and former non-
28 exempt employees in California who were subject to Defendants' timekeeping

policies and/or practices, during the four years immediately preceding the filing of this action through the present.

b. The Overtime Class consists of all of Defendants' current and former non-exempt employees in California who worked more than eight hours in a workday and/or more than 40 hours in a workweek and were subject to Defendants' timekeeping policies and/or practices for non-exempt employees, during the four years immediately preceding the filing of this action through the present.

c. The Meal Period Class consists of all Defendants' current and former non-exempt employees in California who: (i) signed a purported on-duty meal period agreement; and/or (ii) worked at least one shift in excess of 10.0 hours without their timekeeping records reflecting a meal period of at least 30 minutes in duration commencing prior to the conclusion of the tenth hour of work, during the four years immediately preceding the filing of this action through the present.

d. The Waiting Time Class consists of all members of the Minimum Wage Class, Overtime Class, and/or Meal Period Class who separated their employment with Defendants during the three years immediately preceding the filing of this action through the present.

14. **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 and Subclasses are unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than one hundred fifty (150) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

15. **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 employees, which predominate over questions affecting only individual members including, without limitation to:

- i. Whether Defendants paid all minimum wages owed for all hours worked to members of the Minimum Wage Class pursuant to Labor Code §§ 1182.12, 1194, 1194.2 and 1197;
- ii. Whether Defendants violated Labor Code §§ 204, 510, 558, 1194 and 1198 by requiring members of the Overtime Class to perform overtime work and not paying for all said work;
- iii. Whether Defendants' timekeeping policies/practices resulted in the failure to properly compensate members of the Overtime Class and/or Minimum Wage Class;
- iv. Whether Defendants provided legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- v. Whether Defendants correctly paid meal period premium payments for non-compliant meal periods pursuant to Labor Code § 226.7; and
- vi. Whether Defendants paid all wages/compensation due upon separation to members of the Waiting Time Class pursuant to Labor Code §§ 201-203.

16. **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, such as Defendants' uniform minimum wage, overtime, and meal period policies/practices. As such, the 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.

17. **Typicality:** The claims of Plaintiff 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 minimum and overtime wages owed, was not provided all required meal periods, did not receive all meal period premium

wages at his regular rate of pay for missed or non-compliant meal periods, and was not paid all final wages upon his separation of employment.

18. **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 represent the members of the Classes and Plaintiff fully and adequately. 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.

19. **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 Class(es) 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 establish potentially incompatible standards of conduct for Defendants; and/or legal determinations with respect to individual class members which would, as a practical matter, be dispositive of the interest of the other class members not parties to adjudications or which would

1 substantially impair or impede the ability of the class members to protect their interests. Further,
2 the claims of the individual members of the Class are not sufficiently large to warrant vigorous
3 individual prosecution considering all of the concomitant costs and expenses attending thereto.
4 As such, the Classes (as defined herein) are maintainable as a Class under § 382 of the Code of
5 Civil Procedure.

6 **FIRST CAUSE OF ACTION**
7 **MINIMUM WAGE VIOLATIONS**
8 **(AGAINST ALL DEFENDANTS)**

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

10 21. Wage Order 1, § 4 and California Labor Code §§ 1197 and 1182.12 establish the
11 right of employees to be paid minimum wages for all hours worked, in amounts set by state law.
12 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal
13 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
14 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid
15 wages and interest accrued thereon.

16 22. At all relevant times herein, Defendants failed to conform their pay practices to
17 the requirements of the law by failing to compensate Plaintiff and members of the Minimum
18 Wage Class for all hours worked including, but not limited to, all hours they were subject to the
19 control of Defendants and/or suffered or permitted to work under the California Labor Code and
20 Wage Order 1.

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

26 24. As a direct and proximate result of Defendants' unlawful conduct as alleged
27 herein, Plaintiff and the Minimum Wage Class have sustained economic damages including, but
28 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 1.

25. 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 1, and Code of Civil Procedure § 1021.5.

SECOND CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

(AGAINST ALL DEFENDANTS)

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

27. 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.

28. 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 1. Wage Order 1, § 3 requires an employer to pay an employee "one and one-half (1½) times the employee's regular rate of pay" for work in excess of 8 hours per workday and/or in excess of 40 hours of work in the workweek. Wage Order 1, § 3 also requires an employer to pay an employee double the employee's regular rate of pay for work in excess of twelve hours each workday and/or for work in excess of eight hours on the seventh consecutive day of work in the workweek. 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.

1 29. The foregoing policies and practices are unlawful and create entitlement to
2 recovery by Plaintiff and the Overtime Class Members in a civil action for the unpaid amount of
3 overtime premiums owing, including interest thereon, statutory penalties, attorneys' fees, and
4 costs of suit according to California Labor Code §§ 204, 210, 216, 510, 1194, and 1198; and Code
5 of Civil Procedure § 1021.5.

6 **THIRD CAUSE OF ACTION**
7 **MEAL PERIOD VIOLATIONS**
8 **(AGAINST ALL DEFENDANTS)**

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

10 31. Plaintiff is informed and believes, and based thereon alleges, that Defendants
11 failed in their affirmative obligation to provide all of their non-exempt employees in California,
12 including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods
13 in accordance with the mandates of the California Labor Code and Wage Order 1, § 11, for the
14 reasons set forth in the factual allegations and class definitions sections of this Complaint. Despite
15 Defendants' violations, Defendants did not always pay an additional hour of premium pay to
16 Plaintiff and members of the Meal Period Class at their respective regular rates of pay, in
17 accordance with California Labor Code §§ 226.7 and 512.

18 32. As a result, Defendants are responsible for paying premium compensation for meal
19 period violations, including interest thereon, statutory penalties, civil penalties, and costs of suit,
20 pursuant to Labor Code §§ 226.7, 512, and 558, Wage Order 1, and Code of Civil Procedure §
21 1021.5.

22 **FOURTH CAUSE OF ACTION**
23 **UNFAIR COMPETITION**
24 **(AGAINST ALL DEFENDANTS)**

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

26 34. Defendants have engaged and continue to engage in unfair and/or unlawful
27 business practices in California in violation of California Business and Professions Code § 17200
28

1 *et seq.*, by failing to pay Plaintiff and the Classes all overtime and minimum wages owed, and
2 failing to pay all required meal period premium payments.

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

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

12 37. The acts complained of herein occurred within the last four years immediately
13 preceding the filing of this action.

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

19 **FIFTH CAUSE OF ACTION**

20 **WAITING TIME PENALTIES**

21 **(AGAINST ALL DEFENDANTS)**

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

23 40. This cause of action is brought pursuant to Labor Code sections 201-203, which
24 require an employer to pay all wages earned immediately at the time of separation from
25 employment in the event the employer discharges the employee, or if the employee provides at
26 least 72 hours of notice of his/her intent to quit. In the event the employee provides less than 72
27 hours of notice of his/her intent to quit, said employee's wages become due and payable not later
28 than 72 hours upon said employee's last date of employment.

1 41. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them
3 at the time of their separation including, among other things, underpaid overtime wages owed,
4 unpaid minimum wages owed, and meal period premium wages. Further, Plaintiff is informed
5 and believes, and based thereon alleges, that as a matter of uniform policy and practice,
6 Defendants continue to fail to pay members of the Waiting Time Class all earned wages at the
7 end of employment in a timely manner pursuant to the requirements of Labor Code sections 201-
8 203. Defendants' failure to pay all final wages was willful within the meaning of Labor Code
9 section 203.

10 42. Defendants' willful failure to timely pay Plaintiff and members of the Waiting
11 Time Class all earned wages upon separation from employment results in a continued payment
12 of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and
13 members of the Waiting Time Class are entitled to compensation pursuant to Labor Code section
14 203, plus reasonable attorneys' fees and costs of suit.

15 **SIXTH CAUSE OF ACTION**

16 **PRIVATE ATTORNEYS GENERAL ACT**

17 **(AGAINST ALL DEFENDANTS)**

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

19 44. Defendants have committed several Labor Code violations against Plaintiff and
20 other aggrieved employees. Plaintiff, an "aggrieved employee" within the meaning of Labor Code
21 section 2698 *et seq.*, acting on behalf of himself and other aggrieved employees, brings this
22 representative action against Defendants to recover the civil penalties due to Plaintiff, other
23 aggrieved employees, and the State of California according to proof pursuant to Labor Code
24 section 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation and
25 \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code
26 section 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld;
27 (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor
28 Code section 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00

1 for each subsequent violation pursuant to Labor Code section 1197.1 per employee per pay
2 period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant
3 to Labor Code section 226.3 per employee per pay period; and/or (5) \$100.00 for each initial
4 violation and \$200 for each subsequent violation per employee per pay period for those violations
5 of the Labor Code for which no civil penalty is specifically provided, based on the following
6 Labor Code violations:

- 7 a. Failing to pay Plaintiff and other aggrieved employees all overtime compensation
8 earned in violation of Labor Code sections 510, 558, 1194 and 1198;
- 9 b. Failing to pay Plaintiff and other aggrieved employees the statutory minimum
10 wage for all hours worked in violation of Labor Code sections 558, 1182.12, 1194,
11 1194.2, 1197, and 1198;
- 12 c. Failing to provide Plaintiff and other aggrieved employees all required meal
13 periods and failing to pay meal period premiums to Plaintiff and other aggrieved
14 employees at these employees' respective regular rates of compensation for meal
15 period violations in violation of Labor Code sections 226.7, 512, 558, and 1198;
- 16 d. Failing to timely pay Plaintiff and other aggrieved employees all wages due upon
17 termination in violation of Labor Code sections 201, 202, 203;
- 18 e. Failing to pay Plaintiff and other aggrieved employees all wages earned at least
19 twice during each calendar month in violation of Labor Code section 204; and
- 20 f. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved
21 employees in violation of Labor Code sections 558, 1174, and 1198.

22 45. On or about July 9, 2020, Plaintiff notified Guardian Industries, LLC, via certified
23 mail, and the California Labor and Workforce Development Agency ("LWDA") via its website
24 of Defendants' violations of the California Labor Code and Plaintiff's intent to bring a claim for
25 civil penalties under California Labor Code section 2698 *et seq.* with respect to violations of the
26 California Labor Code identified in Paragraph 44 (a)-(f). Now that sixty-five days have passed
27 from Plaintiff notifying Defendants of these violations, Plaintiff has exhausted his administrative
28

requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

46. Based on the foregoing, Plaintiff seeks to represent himself and all other aggrieved employees, as defined by Labor Code section 2699(c), which includes all of Defendants' non-exempt employees in California who were employed by Defendants during the time period of July 9, 2019, through May 27, 2020.

47. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and the interests of other aggrieved 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 receive under California Labor Code section 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 §§ 226.7, 512, and 558;
7. Upon the Fourth 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.*;

1 8. Upon the Fifth Cause of Action, for statutory waiting time penalties pursuant to
2 Labor Code sections 201-203;

3 9. Upon the Sixth Cause of Action, for civil penalties due to Plaintiff, other aggrieved
4 employees, and the State of California according to proof pursuant to Labor Code sections 558
5 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation and \$200
6 for each subsequent violation or willful or intentional violation pursuant to Labor Code section
7 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2)
8 \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code
9 section 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for
10 each subsequent violation pursuant to Labor Code section 1197.1 per employee per pay period;
11 (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to
12 Labor Code section 226.3 per employee per pay period; and/or (5) \$100.00 for each initial
13 violation and \$200 for each subsequent violation per employee per pay period for those violations
14 of the Labor Code for which no civil penalty is specifically provided;

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

17 11. On all causes of action, for attorneys' fees and costs as provided by Labor Code
18 §§ 218.6, 1194 *et seq.*, and Code of Civil Procedure § 1021.5; and

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

2
3 Dated: September 14, 2020

Respectfully Submitted,
HAINES LAW GROUP, APC

4
5 By:



Fletcher W. Schmidt
Attorneys for Plaintiff

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8 **DEMAND FOR JURY TRIAL**

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

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11 Dated: September 14, 2020

Respectfully Submitted,
HAINES LAW GROUP, APC

12
13 By:



Fletcher W. Schmidt
Attorneys for Plaintiff

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

On September 14, 2020, I served the foregoing document(s) described as:

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

GORDON REES SCULLY MANSUKHANI, LLP
275 Battery Street, Suite 2000
San Francisco, CA 94111
Attorneys for Defendant GUARDIAN INDUSTRIES, LLC

[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 September 14, 2020, at El Segundo, California.

Jonathan Ramirez